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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Andorra, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for the text of the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71608 (E) 090102 110102

Annex

[Original: English]

Letter dated 21 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Andorra to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001)

At the request of my Government, I have the honour to transmit to you the report to be submitted by the Principality of Andorra to the Counter-Terrorism Committee pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

My Government will be happy to provide the Committee with such additional information as it considers necessary.

I should be grateful if you would arrange for the text of the present letter and its enclosure to be circulated as a document of the Security Council.

(*Signed*) Roser **Suñé-Pascuet**
Chargé d'affaires a.i.

Enclosure

Report submitted pursuant to Security Council resolution 1373 (2001)

Andorra expresses its profound solidarity and strongly condemns the monstrous terrorist attacks against the American people. It also reaffirms its determination to combat all forms of terrorism by all means at its disposal. In this regard, Mr. Marc Forné, Head of Government of Andorra, has expressed his heartfelt condolences and the solidarity of the Principality of Andorra, a sentiment which was reiterated by Mr. Juli Minoves, Minister for External Relations, in his statement to the Council of Europe at the 109th session of the Committee of Ministers, held on 8 November 2001.

Andorra's interest in combating terrorism is evident in the preamble of its Constitution, which states: "The Andorran people (...) [are] eager to use every endeavour to promote values such as liberty, justice, democracy and social progress, and to keep and strengthen the harmonious relations of Andorra with the rest of the world, and especially with the neighbouring countries, on the basis of mutual respect, coexistence and peace."

In this regard, Andorra is at the disposal of the Counter-Terrorism Committee and is prepared to cooperate in the preparation of the report on measures taken to give effect to resolution 1373 (2001).

This report was prepared in close collaboration with all the ministries concerned, namely, the Ministry of Finance, the Ministry of the Interior, the Unit for the Prevention of Money Laundering (Unité de Prévention du Blanchiment - UPB) and the Ministry for External Relations.

We are entirely at the disposal of the Counter-Terrorism Committee and will be happy to provide any additional information that may be necessary. We will welcome further recommendations.

Paragraph 1: All States shall:

(a) Prevent and suppress the financing of terrorist acts

According to the International Convention for the Suppression of the Financing of Terrorism, of 9 December 1999 (as well as resolutions 46/51, of 1991; 49/60, of 1994; 51/210, of 1996 and 53/108, of 1998), the following offences are directly related to and help finance terrorism: money laundering, drug trafficking, illicit arms trafficking and the smuggling of nuclear materials or other potentially lethal materials.

Money laundering

The Convention includes a number of provisions relating to the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing terrorist offences (article 8).

Andorra recently signed the following conventions condemning terrorism, the financing of terrorism and money laundering:

- Criminal Law Convention on Corruption
- Civil Law Convention on Corruption

– United Nations Convention against Transnational Organized Crime

The Criminal Law Convention on Corruption, done at Strasbourg on 27 January 1999, establishes as criminal offences acts involving the laundering of proceeds from corruption offences, account offences and corporate liability (articles 13, 14 and 18).

The Government of Andorra has also signed the Civil Law Convention on Corruption, done at Strasbourg on 4 November 1999, which provides measures to be taken to prevent money laundering (article 10).

Andorra has signed a number of United Nations conventions having similar purposes. On 12 November, 2001, for example, it signed the United Nations Convention against Transnational Organized Crime, which criminalizes and establishes measures for combating the laundering of proceeds of crime (articles 6 and 7).

Andorra had already been concerned about preventing this offence. On 28 July 1999, it ratified the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, article 6 of which defines laundering offences.

A number of legal instruments have also been enacted at the national level.

Firstly, on 11 May 1995, the Andorran General Council adopted the law on the protection of bank secrecy and prevention of the laundering of money or securities constituting the proceeds of crime. This law requires banking entities to adopt such measures as may be necessary to prevent all kinds of acts involving the laundering of money or securities. These entities are required to identify their clients and any third parties participating in the transaction and to monitor all transactions conducted by each one of them. In 1998, for example, 10 reports were drafted. More recently, on 29 December 2000, the law on international cooperation in criminal matters and prevention of the laundering of money or securities constituting the proceeds of international crime (which abrogates the 1995 law) was passed. This new law provided for the establishment in Andorra of the Unit for the Prevention of Money Laundering (Unité de Prévention du Blanchiment - UPB). All statements, reports and claims concerning suspicious acts are centralized in this Unit, which may issue formal justified requests for information on and documents of persons under obligation, in order to monitor the application of the law. The Unit may also obtain information through the police or in cooperation with similar agencies in other countries. In addition, it provides financial institutions with a "black list" of organizations and individuals, so that they can be on guard.

In the case of potential administrative or criminal offences, the Unit is required to submit the relevant records to the competent public authorities, along with proposed legislation or regulations relating to the prevention of money laundering (article 53).

Under this law Andorran financial establishments and insurance and reinsurance companies, as well as other individuals or corporations who, in the exercise of their professional or business activities, carry out, control or provide advice on transactions involving movements of funds or securities, are required to report to the Unit for the Prevention of Money Laundering. Such reporting must cover all transactions or intended transactions relating to money or securities which they suspect might involve money laundering (articles 45 and 46).

In particular, the law establishes reporting requirements for external accounting professionals and tax advisors, real estate agents, vendors of high-priced goods (when payment is made in cash and involves an amount equal to or higher than 15,000 euros); equally important is the fact that notaries and other independent legal professionals who assist with the planning or execution of transactions for their clients in the context of certain activities are also required to report. The activities in question may involve the purchase or sale of real estate or commercial enterprises, the handling of cash, securities or other assets of clients and the opening or management of bank accounts, savings accounts or securities. They may also involve the organization of contributions relating to the creation, management or administration of corporations and the establishment, management or administration of corporations, trusts or similar structures.

Finally, gambling establishments are also required to report to the Unit for the Prevention of Money Laundering.

This law has been applied quite successfully. Since last summer, when the Unit was created, it has received 22 reports, one of which made it possible to confiscate $1.8 million.

In addition, the Unit has organized training courses on the detection and monitoring of potential money-laundering operations. These courses are designed for persons required to report under article 45. So far, training of police officers has begun, and courses for real estate agents are planned.

Persons under obligation to report and, in particular, financial establishments, are required to set up an oversight body to monitor internal communications in order to prevent money-laundering transactions from taking place. This body is responsible for monitoring and continually reporting all suspicious transactions; for training all staff members, especially those who are in contact with clients; for drawing up internal rules and regulations and, finally, for conducting an annual internal audit to be transmitted to the Unit for the Prevention of Money Laundering.

The following articles of the Criminal Code of Andorra deal with this question:

- Article 145 provides that anyone who has committed an act intended to conceal the source of money or securities representing the proceeds of drug-trafficking, kidnapping, procurement or terrorism offences, or who has used such money or securities for licit purposes but who knows or should have known the source thereof shall be imprisoned for up to eight years and pay a fine of up to 20 million pesetas (approximately 120,202 euros).
- Article 146 provides that, in the case envisaged in the previous article, if the perpetrator acts for the purpose of making a profit or takes part in an association for the purpose of committing offences or laundering money or securities representing the proceeds of offences committed abroad, the penalty shall be ten years imprisonment and a fine of 80 million pesetas (approximately 480,810 euros).
- Article 147 stipulates that the two preceding articles shall apply even if the main offence was committed abroad, provided that it is punishable by the criminal law of Andorra. In any event, the money and securities referred to in the aforementioned two articles shall be confiscated.

- Article 303 provides that anyone who fails to exercise due diligence or who through any other type of negligence, imprudence or incompetence commits the offence mentioned in article 145 of this code shall be imprisoned for up to one year and pay a fine of up to 5 million pesetas (approximately 30,050 euros).

Independently of these legal norms, on 9 April 1990, the different banking entities of the country concluded an agreement (code of ethics) relating to their obligation to exercise due diligence, with a view to encouraging cooperation with the judicial authorities when it was suspected that a transaction might be designed to use the financial system to launder money representing the proceeds of criminal activities such as terrorism, banditry and drug trafficking.

In this regard, the financial establishments stress that there are no anonymous accounts in Andorra. Although there are numbered or other types of account, the account holders are clearly identified and monitored by the banks.

This agreement was drawn up in response to the recommendation made by the Council of Europe on 27 June 1980 and the Statement of Principles adopted at Basel in December 1988 by the oversight authorities of the Group of Ten countries.

Drug trafficking

Andorra acceded to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances on 27 January 1999. Article 3 of the convention establishes the offences and sanctions that fall under this category.

As far as domestic legislation is concerned, there is a law on the protection of bank secrecy and prevention of the laundering of money or securities representing the proceeds of crime. This law provides for Andorran and foreign authorities to cooperate in preventing the laundering of the proceeds of drug trafficking and organized crime (article 17).

In addition, the Penal Code provides that the introduction, export, manufacture, transport, transfer or any type of illicit trafficking of toxic drugs (...) shall be punishable by imprisonment of up to twenty years (article 161). It also provides for a maximum five-year term for the same offence when smaller amounts are involved (article 163).

Illicit arms trafficking and smuggling of nuclear material or other potentially lethal materials

The Andorran legal system includes a number of provisions relating to arms trafficking. Firstly, a decree of 3 July 1989 regulates the possession, use and distribution of firearms. In particular, sections II and III list the prohibited weapons and imitations of prohibited weapons and those which may not be carried.

Secondly, the Penal Code establishes penalties for illicit possession of firearms (articles 289 and 290), as well as for the stockpiling, import, export, sale or transit, real or fictitious, through the Principality, as well as the manufacture of prohibited arms or imitations of such arms, envisaged in section 2, article 2, of the decree of 3 July 1989, except those mentioned in paragraph 8. Such offences are punishable by imprisonment of up to ten years; illegal carrying of one or more of such arms (...) is punishable by imprisonment of up to five years (articles 89 and 90).

Thirdly, article 93 states that the import, purchase, sale, possession, carrying and repair of regulated arms or the manufacture of regulated munitions, without the necessary permits, authorizations or licenses shall be punishable by imprisonment of up to three years, except in the cases envisaged in articles 289 and 290 of this code. Smooth-barrelled hunting guns are exempted from the provisions of this article.

Along the same lines, article 95 provides that the illegal sale of regulated handguns to anyone who is not a resident of the Principality shall be punishable with imprisonment of up to four years.

Finally, anyone who carries out international transactions with regulated arms which involve real or fictitious transit through the Principality shall be imprisoned for up to eight years. As regards explosives, the purchase, sale, possession or import of explosives not intended for use in an authorized activity shall be punishable with imprisonment of up to ten years (articles 96 and 98 respectively).

Corruption

Corruption may be understood as a means of financing terrorism in such a way to prevent the proceeds of criminal activity from being traced.

In November 2000, in the framework of the Council of Europe, Andorra signed the Criminal Law Convention on Corruption and the Civil Law Convention on Corruption.

The Criminal Law Convention provides penalties for passive or active corruption, at the international or national levels, on the part of public-sector employees and officials, as well as of private-sector employees or managers (articles 2-11).

The Civil Law Convention establishes civil liability for acts of corruption.

The Andorran Penal Code provides that anyone who for illicit purposes bribes an authority, a representative of the authority or a public official shall be punished by imprisonment of up to five years (...) and the representative of the authority or the public official who receives a bribe shall be punished by imprisonment of up to six years and three years respectively (article 105).

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

The Andorran Penal Code provides that anyone who collects funds for the benefit of such organizations or groups shall be imprisoned for up to eight years. If violence or intimidation is used in obtaining such funds, the applicable penalty shall be twelve years (article 84).

Under article 82, the organizations in question are understood to be those that have jeopardized the security of the Principality or disturbed the peace and public order by means of arms or explosives or by committing attacks.

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or

generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;

Andorra acceded to the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime on 28 July 1999. This convention provides for measures to be taken to confiscate instruments and products or goods the value of which represents an economic advantage obtained from criminal offences.

The Convention also provides for competent authorities, in the context of an investigation, to order the seizure of bank, financial or commercial records, the tracing of bank accounts, as well as monitoring, interception of telecommunications, access to computer systems and orders to produce specific documents (article 4).

Articles 13, 14, 15 and 16 cover the obligation to confiscate, execution of confiscation and confiscated property.

When it acceded to the Convention, Andorra issued a statement to the effect that the Andorran legal system already covered practically all the measures referred to in the Convention, and that its accession therefore would only entail making minor changes in its legal system which would be taken into account in future legislative proceedings. It also entered reservations relating to the criminal offences or categories of criminal offences established under Andorran legislation in connection with the laundering of money or securities representing the proceeds of crime.

Andorra's domestic rules on the freezing of assets are set forth in the following:

The Penal Code:

- Article 147. (...) states that in all cases, money and securities envisaged in these same articles shall be confiscated...
- Article 37, paragraph 5 also provides for the confiscation of the instruments used in committing of the offence.

The law on international cooperation in criminal matters and prevention of the laundering of money or securities constituting the proceeds of international crime, of 29 December 2000 (referred to above).

- Article 38 provides for international legal cooperation in connection with requests for confiscation of instruments used to commit an offence or the proceeds, money, securities or goods so obtained.
- Article 47 provides that the Unit for the Prevention of Money Laundering may provisionally block a transaction if it considers such action to be justified by the evidence. The transaction may not be blocked for more than five days, the maximum time limit within which the Unit is required by law to transmit the action to the government attorneys' office if the evidence is confirmed.

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

Making available funds, financial assets or economic resources to persons who attempt to commit acts of terrorism is prohibited in articles 145 and following of the

Penal Code. Non-profit organizations may also be potential vehicles for such transfers of funds.

In this regard, the activities of these agents are regulated by the law on associations, which entered into force on 29 June 2001. This law envisages the creation of a registry of associations, which are required to present the necessary documents of incorporation, including a list of their membership and a statement of their assets.

The Andorran government regulations establish how it shall determine what additional accounts must be provided by all associations receiving public subsidies.

Non-profit organizations set up in Andorra are also subject to monitoring through their banking transactions, and thus are fully identified by the persons under obligation to report.

Andorran legislation on corporations does not allow for the establishment of off-shore companies, trusts, front companies, etc., which would make it more difficult to identify the final beneficiaries. Two-thirds of a company's capital must be held by Andorrans or by foreigners who have resided in Andorra for at least 20 years.

Finally, Andorran legislation does not allow for bearer titles, since shareholders must be fully identified in company by-laws.

In any event, the possibility that such organizations might be used to finance terrorism or might have other ties with terrorism is envisaged in the Penal Code, articles 82, 83 and 84.

Paragraph 11: Decides also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

As mentioned above, the Penal Code provides penalties for the possession of illicit firearms (articles 289 and 290).

In addition, the Penal Code provides a number of penalties for anyone who provides support for organizations and groups that have endangered the security of the Principality or disturbed the peace and public order through the use of arms or explosives, or by committing attacks (article 82).

The Penal Code defines support as:

- anyone who has found lodging or provided any kind of means for members of these organizations shall be punished by imprisonment of up to eight years (article 85),
- anyone who provides or procures arms or explosives for terrorists or armed groups shall be punished with imprisonment of up to fifteen years, without prejudice to a higher penalty being imposed for other offences (article 86),
- support to organizations may also be considered to be the justification of offences or organizations or groups covered by the preceding articles. Such activities are punishable by six years imprisonment.

In addition, on 29 June 1998, the Principality of Andorra ratified the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.

It is currently studying other conventions as well.

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

The Unit for the Prevention of Money Laundering referred to above (first paragraph, subparagraphs (a) and (c)) is empowered to cooperate with similar agencies in other countries.

The ministries concerned are also studying the possibility of adhering to the European Convention on Mutual Assistance in Criminal Matters.

In principle, Andorra normally conducts mutual assistance procedures through diplomatic channels, by means of letters rogatory between the different States.

Nevertheless, as a rapid warning mechanism, the authorities of a requesting State may also address their requests to the Andorran judicial authorities through Interpol. The National Central Bureau (OCN-Andorra) contacts the criminal authorities directly and reports to the Minister of the Interior, the judge who prepares the document, then accepts the letter rogatory and determines what measures are to be taken.

Once the letter rogatory has been executed, the judge reports to the Ministry for External Relations so that it can be sent by diplomatic channels as an priority matter, and the requesting State can be notified.

The legal basis for this procedure is, on the one hand, article 52 of the transitory law on judicial procedures, and on the other, Title One of the recently enacted law on international cooperation in criminal matters and prevention of the laundering of money or securities constituting the proceeds of international crime. This law provides that in urgent cases, the judicial authorities of requesting States may also address the Ministry for Foreign Affairs directly or through Interpol.

In general, Andorra has collaborated in matters pertaining to the laundering of money or securities representing the proceeds of crime based on its domestic legislation and the principle of reciprocity, particularly in regard to requests made by means of letters rogatory.

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

Andorra has no legislation on the right of asylum.

Nevertheless, article 5 of the Constitution of the Principality of Andorra incorporates the Universal Declaration of Human Rights into its legal system. These rules are to be applied directly, and consequently, article 14, on the right of asylum, would be applicable in Andorra.

However, article 14 of the Andorran law on extradition establishes limitations that must be taken into consideration in making a decision on the matter. In particular, paragraph two provides that extradition may be denied in cases where the events giving rise to the request are political in nature or when circumstances are such that extradition is requested for political reasons. In such cases, if an extradition request is denied, that in itself would be an affirmation of the right of asylum. This would also be true in the case of paragraph four, whereby extradition may be denied when there are serious reasons to believe that an extradition request relating to an offence

under ordinary law has in fact been made for the purpose of persecuting or punishing a person because of that person's race, religion, nationality or political views or when the situation of the person might be aggravated by any of those reasons.

Nevertheless, up to now, Andorra has not received any requests for asylum.

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

The sphere of application of the Penal Code is established in article 2, which states that the Code shall apply to all offences and violations committed in the territory of the Principality.

Andorran citizens or foreigners who commit acts of terrorism in Andorra or Andorrans who commit such acts abroad may be prosecuted by the Andorran authorities (article 4 of the Penal Code).

The various criminal laws concerning terrorism and the financing of terrorism mentioned above have been enacted so as to meet the obligation to prevent the different acts mentioned in the resolution.

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

Andorra's legislation contains few provisions directly concerned with terrorism, which have already been mentioned, to wit:

- Article 145 of the Penal Code includes a direct reference, i.e., that a terrorist offence (...) shall be punishable by imprisonment of up to eight years and a fine of up to 20 million pesetas (approximately 120,202 euros).
- Article 230 provides that anyone who through violence or intimidation seizes or takes control of an aircraft or a motor vehicle carrying passengers shall be imprisoned for up to ten years.
- Article 82 states that anyone who (...) uses arms or explosives or commits attacks shall be imprisoned for up to twenty years.
- In this regard, another potential terrorist act is mentioned in article 118, which states that those who as a group endanger public peace and inflict wounds or taunt individuals or damage property shall be imprisoned for up to two years and six months.
- Finally, article 88 establishes a maximum prison term of three years for anyone who participates in groups considered to be paramilitary in nature, by virtue of their organization, uniform or emblems or because they incite to armed action.

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

In criminal investigations, police cooperation is provided in three different ways.

In the first place, it usually consists of a rapid and spontaneous exchange of information between the police of Andorra and those of Spain, France and other neighbouring States. Such mutual cooperation has been practiced for a long time. However, two protocols on police cooperation have been concluded with the Spanish authorities.

Secondly, cooperation is provided by means of Interpol.

And finally, through letters rogatory. In this case, assistance may be requested so as to obtain evidence needed for the proceedings. Law on international cooperation in criminal matters and the prevention of laundering of money or securities constituting the proceeds of international crime (article 20 and following).

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

In order to prevent the counterfeiting of passports, Andorra follows the rules of the International Civil Aviation Organization (ICAO) regarding official travel documents. These rules have been followed since 19 April 1995, even before Andorra's adherence [to them] on 26 January 2001.

These security measures allow for strict surveillance and prevent potential counterfeiting. They are also applied in connection with immigration papers.

Nevertheless, the Penal Code includes certain provisions regarding counterfeiting, forgery or the fraudulent use of documents, as follows:

- Anyone who forges a public or official document shall be imprisoned for up to five years (article 148);
- When the forgery has been carried out by a public official in the exercise of his duties, the penalty shall be up to seven years imprisonment (article 149);
- Anyone who uses or consciously obtains false documents shall be imprisoned for up to three years (article 151). This applies to identity papers, passports, driver licenses or arms permits or any other document normally issued by a competent authority.
- The possession in bad faith or the unjustified possession of any type of false document shall be punishable by imprisonment of two years and one month (article 152);
- In the case of blank false documents, the punishment shall be imprisonment for two years and one month (article 153);
- Finally, anyone who assigns, sells or provides false documents shall be imprisoned for six years (article 154).

Paragraph III: Calls upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or

sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

Andorra has been a member of the International Criminal Police Organization (ICPO-Interpol) since 27 November 1987, and pursuant to a special resolution adopted by the General Assembly of Interpol on 25 September 2001, has undertaken to intensify its efforts to combat terrorism.

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

Title One of Andorra's law on international cooperation in criminal matters and prevention of the laundering of money or securities constituting the proceeds of international crime provides mechanisms for exchanging information and for international mutual assistance on legal matters.

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

Andorra has begun to participate in international communications channels which are gradually centralizing and redistributing information on individuals or companies which might be engaged in money-laundering activities. For example, the Unit for the Prevention of Money Laundering contacted the counterpart agencies in France (TRACFIN) and Spain (SEPBLAC) with a view to cooperating in the exchange of information and the tracing of fraudulent transactions. These bilateral agreements were concluded and were in force before March 2002; in the case of SEPBLAC, before the end of the year. Andorra had already demonstrated its willingness to cooperate with neighbouring States even before the entry into force of these agreements. In this regard, three requests were executed with TRACFIN and one with SEPBLAC. The spontaneous exchange of information has brought positive results. Moreover, in a telephone conversation with the American Under-Secretary of the Treasury, the Minister for External Relations conveyed the proposal made by the Minister of Finance to enter into bilateral cooperation between Andorra's United for the Prevention of Money Laundering and the American counterpart agency. In addition, the Unit will join the Egmont Group of Financial Intelligence Units at its plenary meeting in June in Monaco; this organization is a grouping of all financial intelligence units in the world (FIUs). Thus, Andorra will participate in the exchange of information and cooperation at the global level.

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

The Government of Andorra wishes to reaffirm its active rejection of terrorism. To this end, it lists below the conventions on the matter to which it has adhered, those it has signed recently and finally, those it is considering signing.

Conventions to which Andorra has acceded:

- Andorra acceded to the International Criminal Police Organization on 27 November 1987;

- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, on 18 September 1997;
- United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, on 27 January 1999;
- European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, on 28 July 1999;
- European Convention on Extradition, ratified on 11 May 2000;
- And finally, the Rome Statute of the International Criminal Court, signed on 17 July 1998, and ratified on 30 April 2001.

Conventions signed by Andorra after the attacks against the United States:

- The Government of Andorra signed the International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999;
- The United Nations Convention against Transnational Organized Crime, done at New York on 15 November 2000;
- In the context of the Council of Europe, it signed the European Convention on the Suppression of Terrorism, which was opened for signature at Strasbourg on 27 January 1977;
- The Criminal Law Convention on Corruption, opened for signature at Strasbourg on 27 January 1999;
- The Civil Law Convention on Corruption, also opened for signature at Strasbourg on 4 November 1999.

In addition, other conventions drawn up by the United Nations, the International Civil Aviation Organization and the Council of Europe with a view to providing instruments for combating terrorism are under study at this time.

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

With regard to Security Council resolutions 1269 (1999) and 1368 (2001), the Government of Andorra, in its desire to cooperate and express its condemnation of all terrorist acts, methods and practices, has signed all the conventions that have been drawn up on the matter.

The necessary legislative steps for the application of the conventions that were signed in November 2001 are currently being drawn up.

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

In principle, the Andorran legal system has no rules regarding the right of asylum (this was mentioned above, in the second paragraph, subparagraph (c)).

On the other hand, in order to become a legal resident of Andorra, an immigration application must be presented to the Immigration Service (decree regulating the Immigration Service of 15 February 1996, article 1). This request may, however, be denied under the terms of the basic decree on immigration of 26 June 1980, which provides for a background check to be made of the person concerned; that, in turn, may lead to an immigration permit being refused (subparagraph III.7).

In this regard, the police authorities (article 3(c) are competent to check the judicial and police records of foreigners and to enforce public order in general.

An immigration application from a person who participates in the financing, organization, preparation or perpetration of terrorist acts would be denied if the background check shows that there is reason to do so. When an immigration application is refused, the applicant would then be asked to leave Andorra within a short time. If necessary, an order of expulsion and escort to the border would be executed, pursuant to article 14.2 of the Viguiers decree on residence of foreigners, of 3 July 1980.

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

The Andorran extradition law stipulates that acts that are punishable under the laws of the requesting State and the requested State (...) shall be grounds for extradition (article 2).

As indicated above, the Penal Code includes several provisions on terrorism. Thus, the financing, organization, preparation or perpetration of terrorist acts shall justify an extradition request.

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The Counter-Terrorism Committee has received the attached report from Indonesia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 21 December 2001 from the Permanent Representative of Indonesia to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Acting on instructions from my Government, I have the honour to submit herewith a report on the measures taken by the Government of the Republic of Indonesia pursuant to provisions of paragraph 6 of Security Council resolution 1373 (2001) concerning the fight against terrorism (see enclosure).

I should be grateful if you would have the text of the present letter and its enclosure circulated as a document of the Security Council.

(*Signed*) Makmur **Widodo**
Ambassador
Permanent Representative

Enclosure

Report to the Counter-Terrorism Committee of the Security Council pursuant to paragraph 6 of Security Council resolution 1373 (2001)

REPUBLIC OF INDONESIA

I. INTRODUCTION

The Government of the Republic of Indonesia has consistently been of the view that the United Nations occupies a pivotal role in the global efforts to combat international terrorism. The United Nations' universality of membership endows it with Charter-based legitimacy to overcome the threat of international terrorism in a manner which is inclusive; wherein states and peoples, irrespective of political systems, civilizations and soda-cultural backgrounds, unite in solidarity against this common scourge. Moreover, it is to the United Nations that Member States must turn to ensure that instruments for combating international terrorism are multi-dimensional in nature; political, legal, economic and financial, and military. In the absence of such multi-track approach, solutions could only be temporal in time and limited in nature.

Imbued with such a United Nations-centred perspective, the Government of Indonesia has welcomed the adoption of Security Council resolution 1373 (2001) on 28 September 2001 and sets its implementation as a matter of urgent priority.

Indeed, the Government of Indonesia has been unqualified in condemning the barbaric and indiscriminate attacks of II September 2001 which resulted in the loss of lives of a great number of innocent people as well as material damage. As a country with a majority Muslim population, indeed, as a country with the largest Muslim population in the world, Indonesia has been at the forefront in emphasizing that Islam is a religion of tolerance which totally rejects terrorist acts.

As a matter of fact, Indonesia's concern to combat the threat of international terrorism predates the 11 September attacks. It is to be recalled that during the visit by the President of the Republic of Indonesia, H.E. Madame Megawati Soekarnoputri, to the ASEAN member countries on 21-28 August 2001, the issue of cross-border terrorism, which is linked to irregular cross-border movement of people and the illegal smuggling of small arms, was a priority subject of discussions, Indonesia, in this regard. submitted the need for greater regional cooperation in the field.

For the specific purpose of implementing resolution 1373 (2001), an interdepartmental group under the coordination of the Department of Foreign Affairs and involving, inter alia, the Coordinating Ministry for Political and Security Affairs, Coordinating Ministry for Economics, Department of Defence, National Police, Armed Forces of the Republic of Indonesia, Department of Justice and Human Rights, the Office of the Attorney General, Department of Finance, Department of Transportation, Bank Indonesia as the Central Bank, the National Intelligence Agency and the TNI Strategic Intelligence Agency was established and tasked to follow-up the resolution.

Also as part of the effort to heighten and to renew awareness of the dangers of international terrorism, an interdepartmental Task Force is to be established by a Presidential Decree.

A vital component in the fight against terrorism is the **strengthening of the legal infrastructure**. In this connection, Indonesia is pursuing a two track approach, namely the drafting and promulgation of national laws and the ratification of, or accession to, the relevant international conventions.

In this connection, in view of the interrelatedness of terrorism and other transnational crimes, Indonesia is in the final phases of adopting an anti money laundering legislation. The draft is at present being considered by the Parliament. In

addition, a draft anti-terrorism legislation is being prepared. However, existing legislations, in particular the Anti-Narcotics legislation contains provisions (article 77) which allows for the confiscation of funds and assets generated from the illegal sales of banned substances.

Likewise, Indonesia is now urgently engaged in preparing the ratification of the "International Convention for the Suppression of the Financing of Terrorism, 1999" which it signed on 24 September 2001. Accession to the "International Convention for the Suppression of Terrorist Bombing, 1997" is also being actively considered. Consideration is also on-going for the ratification of the "Convention against Transnational Crime" along with its Optional Protocols. At present, through Law no. 2 of 1976, Indonesia has ratified the Convention for the Suppression of Unlawful Seizure of Civil Aviation", the Hague, 1970, The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation", Montreal, 1971 and the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 1963.

Yet another vital component in the fight against terrorism is **institution capacity building**.

In this regard, in addition to its own national efforts to strengthen its law enforcement agencies, Indonesia has actively promoted both bilateral as well as regional cooperation. Bilaterally, Indonesia has forged close cooperation, including in exchange of intelligence information, with its neighbors in the region, including Malaysia, the Philippines and Singapore. in this regard, in the wake of the 11 September attacks, the Government of Indonesia has hosted a meeting of the Chiefs of the National Police of ASEAN in Batam and the Chiefs of Armed Forces of ASEAN in Bintan. In addition, the Chief of the National Intelligence Agency recently visited the ASEAN member countries in order to promote cooperation in combating terrorism, Likewise, similar bilateral cooperation exist with countries outside the region, including with those in the position to offer technical advice and assistance. Beyond bilateral arrangements, the Government of Indonesia has actively pursued cooperation between Member States of ASEAN, the Organization of the Islamic Conference, the Non-Aligned Movement, APEC (in particular the economic and financial aspects or implications of acts of terrorism) and various other international fora and organizations.

Also in recognition of the close ties between international terrorism and other transnational crimes, Indonesia has taken the initiative to convene a ministerial regional conference on people smuggling, trafficking in persons and related transnational crimes which is scheduled for 27-28 February 2002.

With resolution 1373 (2001) as its reference point, the Report would further elaborate the above points as illustration of the steps Indonesia has taken to combat the threat of international terrorism.

II. IMPLEMENTATION

Operative paragraph 1

Sub-paragraph (a): What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)?

1. The prevention and suppression of financing of terrorist acts are important elements in the fight against terrorism as reflected, inter alia, in the signing by Indonesia of the international Convention for the Suppression of the Financing of Terrorism, 1999. In addition, the Anti-Narcotics legislation contains provisions (article 77) which allows for the confiscation of funds and assets generated from the illegal sales of banned substances which may be used for terrorist activities.

2. Also as a follow up to Security Council resolutions 1267 (1999), 1333 (2000) and 1373 (2001), upon the request of the Department of Foreign Affairs, in communications dated 24 October 2001 and 16 November 2001, the Attorney General's Office formally submitted to Bank Indonesia, as the central bank, lists of persons and entities suspected of involvement in terrorist activities as provided by the Committee established pursuant to the aforementioned Security Council resolutions.

3. In the aforesaid communications, the Attorney General's Office requested Bank Indonesia to circulate the lists to all banks operating in Indonesia and if accounts belonging to these individuals and entities are identified, to freeze them. Bank Indonesia forwarded these lists to the banks in communications dated 5 November 2001 and 21 November 2001.

4. The Department of Foreign Affairs continues to monitor the up-dating by the Security Council of the lists of accounts of individuals and entities suspected of involvement in the financing terrorist acts. Such up-dates are communicated to the Attorney-General's Office for submission to Bank Indonesia and banks in Indonesia generally.

5. To date, accounts belonging to listed individuals and entities have not been identified. However, the process of identification is on-going.

Sub-paragraph (b): What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

Although Indonesia is still in the process of preparing an anti-terrorism legislation, existing laws and regulations as inter alia sets out below would attach criminal liability to those who willfully make available funds, financial assets or services to prepare or carry out terrorist acts.

Sub-paragraph (c): What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken

1. The procedure for the freezing of accounts and assets at banks and financial institutions are based on five instruments[1]. Based on this procedure, the competent parties which could submit a request for the freezing of accounts and assets are the relevant law enforcement agencies, namely the Police (Kepolisian Repubtik Indonesia - POLRI) and the office of the Attorney General of the Republic of Indonesia.

2. Requests by either the Police or the Attorney General's office are submitted directly to the banks concerned or through Bank Indonesia. Requests for the freezing of accounts and assets do not require the approval of Bank Indonesia.

3. Requests for the freezing of accounts and assets are generally specific in nature by including the identity of the concerned individuals or entities, the account number and the name of the bank(s). In addition, the legal basis for the requests should be submitted.

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[1] These are:

a. Circular Letter/ of the Commander of Indonesian Police Force no. 028/9/I/DK/67 dated 13 September 1967 on the freezing of deposits/funds/accounts.

b. Letter of the Deputy Attorney General for Special Affairs, on behalf of the Attorney General no. B27810.2/6/69 dated 26 June 1969 on the confiscation of bank accounts

c. Letter of the Deputy of Operation Affairs, on behalf of the Chief of the Indonesian Police no. 4/260/TPC/DEOP/X/70 dated 31 October 1970 on the confiscation of bank accounts.

d. Joint Decision Letter of the Attorney General, Chief of Indonesian Police and the Governor of the Indonesian Central Bank no. KEP.126/1 997, KEP/10/xi/1997. 30/6/KEP/GBI dated 6 November on the cooperation to address criminal acts in the banking sector.

e. Regulation of the Indonesian Central Bank no 2/19/PBI/2000, dated 7 September 2000.

4. Upon the receipt of such request, the head of the bank concerned shall notify the relevant law enforcement agencies that on a specified date the account(s) has/have been frozen.

5. In cases which affect the interest of the general public or the national interest, requests for *freezing* of accounts and assets identifying the name of the account holder and the legal basis for the requests could be made without reference to specific account(s) or bank(s) where such account is held. In these circumstances, the requests addressed to all banks could be submitted through Bank Indonesia. Bank Indonesia shall in turn forward these requests to all banks. The latter would report the steps they have taken to Bank Indonesia to be forwarded to relevant law enforcement agencies or directly report to relevant law enforcement agencies that requested the freezing of account.

6. The above procedure was followed in implementation of United Nations Security Council Resolutions 1267 (1999) and 1333 (2000), specifically the freezing of accounts and assets of individuals and entities identified by the Committee (see sub-paragraph 1 a above).

Sub-paragraph (d): What measures exist to prohibit the activities listed in this sub-paragraph?

1. Bank Indonesia has issued Regulation No. 3/10/PBI/2001 of 18 June 2001 on "know your customer principles" as amended by Bank Indonesia regulation No. 3/23/PBI/2001 of 13 December 2001. The aforementioned regulation regulates policies and procedures on the acceptance of bank clients; identification of clients; monitoring of the accounts and financial transactions of clients and risk management which is related within the implementation of "know your customer principles".

1. In addition, banks are required to report suspicious trar sactions to Bank Indonesia.

3. In accordance with the recommendation of the "The Financial Action Task Force on Money Laundering", the "know your customer principle" is an attempt to prevent the banking sector to be used for direct or indirect illegal or criminal activities, specifically money laundering.

4. The application of such "know your customer principle" provides a safe-guard against the use of the banking system by individuals or entities for acts of terror. In addition, a draft legislation on the Eradication of Money Laundering is presently being intensively discussed within the Parliament (Dewan Perwakilan Rakyat-DPR).

Operative paragraph 2

Sub-paragraph (a): What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

1. Although Indonesia is still in the process of promulgating an anti-terrorist legislation, existing legislations and measures could be, and have been, applied to give effect to this sub-paragraph.

2. Among the legislations which may be applied to give effect to this sub-paragraph are:

Penal Code of Indonesia, Book II on Crimes, Chapter V on Crimes against the public order, Article 160 which inter alia states:

"Any person who orally or in writing incites in public to commit a punishable act, a violent action against the public authority or any other disobedience, either to a statutory provision or to an official order issued under a statutory provision, shall be punished by a maximum imprisonment of six years ..."

Penal Code of Indonesia, Book II on Crimes, Chapter V on Crimes against the public order, Article 163 bis which inter-alia states:

"(1) Any person who by one of the means mentioned in Article 55 under 2 attempts to induce others to commit a crime, shall, if it does not result in the crime or a punishable attempt thereto, be punished by a maximum imprisonment of six years ..."

The above articles could be used as legal basis to prevent the recruitment of individuals for terrorist activities.

Penal Code of Indonesia, Book II on Crimes, Chapter VII on Crimes whereby the general security of persons or property is endangered, Article 187 which states:

"Any person who with deliberate intent sets fire, causes explosion or causes a flood, shall be punished: first, by a maximum imprisonment of twelve years if thereby general danger to property is feared; second, by a maximum imprisonment of fifteen years if thereby danger of life for another is feared; and third, by life imprisonment or a maximum temporary imprisonment of twenty years if thereby danger of life for another is feared and the act results in the death of someone."

Penal Code of Indonesia, Book II on Crimes, Chapter VII on Crimes whereby the general security of persons or property is endangered, Article 187 bis which inter-alia states:

"(1) The person who produces, receives, tries to procure, has in store, conceals, transports or imports into Indonesia stuffs, objects or tools of which he knows or reasonably must suspect that they are intended or will occasionally be used to cause an explosion, whereby danger of life or general danger to property is feared, shall be punished by a maximum imprisonment of eight years or a maximum light imprisonment of one year.

(2) The defectiveness of the stuffs, objects or tools referred to in the foregoing paragraph, in causing an explosion above described, shall not exempt from liability to punishment."

This article could be applied against individuals or groups which supply weapons for terrorist activities. Both articles could be applied against terrorist activities carried out both by individuals or groups. Moreover, in certain cases these articles could be linked with other articles relating to criminal acts.

Sub-paragraph (b): What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

1. Exchange of information and intelligence between states is crucial for the effective combating of terrorist activities.

2. Such exchange have been promoted inter-alia within the context **International Criminal Police Organization (ICPO) - INTERPOL**. At its 70th meeting in Budapest on 24-28 September 2001, the participating Indonesian Police delegation joined others in agreeing to a resolution which condemned the 11 September attacks. In addition, the "red notice" designation of Osama bin Laden and other terrorists issued by meeting of ICPO-INTERPOL in Lyon as well as those issued by other states' INTERPOL have been distributed to relevant agencies in order to carry out legal proceeding in accordance with the requesting states' requests.

3. In addition, the Government of Indonesia has intensified **bilateral as well as regional cooperation to enhance exchange of information**. These include the agreement reached between the Government of

Indonesia and the Government of United States of America following the visit by President Megawati Soekarnoputri to Washington D.C. on 19 September 2001 to strengthen bilateral cooperation on counter terrorism, in particular capacity and institution building. Moreover, the two Governments affirmed their intention to expand cooperation to combat other trans-national crimes including piracy, trafficking in person, narcotics and smuggling of small arms. In implementation of this agreement a "security dialogue" between the Republic of Indonesia and United States of America is planned to be held in the near future, inter alia to discuss the question of international terrorism. In addition, similar dialogue between Indonesia and Australia at the senior officials level has recently been conducted in Denpasar and Canberra.

4. Within the regional context, the Government of Indonesia. is actively engaged with the Governments of the Philippines. Malaysia, Thailand, and Singapore to reach an agreement on exchange of information and establishment communication procedures. The first meeting to discuss this issue is planned on 27-28 December 2001 in Manila. It is also to be noted that Indonesia and the Philippines has established a Task Force on Joint Naval Patrol to prevent the smuggling of small arms.

5. Similar recognition of the importance of exchange of information and intelligence was recognized by the Heads of State and Government of ASEAN at their 7th Summit in Bandar Seri Begawan on 5 November 2001 The 2001 ASEAN Declaration on Joint Action to Counter Terrorism inter-alia tasks the Ministers to take additional practical measures including:

"Enhance information/intelligence exchange to facilitate the flow of information, in particular, on terrorist and terrorist organizations, their movement and funding, and any other information needed to protect lives, property and the security of all modes of travel".

6. Also within the context of ASEAN, the Third ASEAN Ministers Meeting on Transnational Crime (AMMTC) in October 2001 in Singapore focused on terrorism and endorsed the convening of an Ad hoc Expert Group meeting and special session of the SOMTC and AMMTC on terrorism. A special AMMTC on terrorism is planned in April 2002 in Malaysia. Discussions in these forums include the question of enhancement of exchange information and intelligence.

7. Within the context of APEC, the APEC Economic Leaders' Statement on Counter-Terrorism issued in Shanghai, China, on 21 October 2001 also had references to the importance of counter-terrorism cooperation namely exchange of information especially as they relate to the fields of economy and finance.

Sub-paragraph (c): What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

1. Although Indonesia is in the process of promulgating an anti-terrorist legislation, existing legislations and measures could be applied to give effect to this sub-paragraph.

2. Regulation no. 9 of 1992 on Immigration contain elements which could be applied t~ ensure that no safe haven is given to those who finance, plan, support, or commit terrorist acts. Articles 42 (1) and 42 (2) of the aforementioned regulation provide for steps to be taken against foreigners residing in Indonesia who carry out dangerous activities or activities deemed to threaten general public order or violating existing national laws and regulations. Such steps include their deportation and denial of entry to Indonesia. Article *54* of the same regulation provides that anyone who provide safe haven to such individuals is liable to a maximum of six years imprisonment or a fine of 30 million rupiahs.

Sub-paragraph (d): What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizen? It would be helpful if States supplied examples of any relevant action taken.

Pending the adoption of the anti-terrorism legislation, the procedure outlined in sub-paragraph 1 (c) above is applicable.

Sub-paragraph (e): What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

1. Previously cited legislations and regulations would ensure that acts of terrorism would not go unpunished, In addition, however, Indonesia is at present in the process of preparing an anti-terrorism legislation which would specifically deal with terrorist acts.

2. Cases of acts of terrorism which have been dealt with under existing laws and regulations include the following:

   a. The bombings of Atrium Shopping Center and Saint Anna and Duren Sawit Churches.

      The police have arrested one Mr. Taufik, who claim to be a Malaysian national, and a Mr. Dani as suspects in these bombings. based on the information given by Mr. Dani, ten additional suspects have been apprehended. The police is presently questioning these suspects. There are indications of the involvement of international terrorists in these bombings. Once completed, the dossier of the case will be submitted to the Office of the Attorney General for legal action.

   b. Hijacking of Garuda Indonesian Airways ("Woyla")

      Garuda flight number 201 serving Jakarta – Palernbang - Medan route carrying 42 passengers and 5 crews was hijacked to Bangkok, Thailand between 28 - 31 March 1981 by "Commando Jihad" led by Imron bin Muhammad Zein. The hijackers demanded the release of 80 of their colleagues who were then serving sentence in Indonesian jails. The same group also launched an attack against a police station in Cicendo, Bandung. In response, the Indonesian Army Elite Forces (RPKAD) and Thailand's Military jointly launched a rescue mission which freed all of the hostages and killed five hijackers, and took the lives of one member of the Army Elite Forces and one of the Garuda pilot. On 6 April 1981, the masterminds behind the hijacking including Imron bin Muhammad Zein and Salman Hafiz, were arrested and tried accused of subversion under regulation number 11/Prnp/1963. Imron bin Muhammad Zein and Salman Hafiz were sentenced to death by the Central Jakarta District Court on 13 March 1982. Azhar bin Muhammad Gafar was also sentenced to death by South Jakarta District Court on 23 September 1982. Ir. Teuku Malikul Army Noor was sentenced to 12 years imprisonment by Bandung District Court on 30 March 1983. Muhamad Amin was sentenced to life imprisonment by Jombang District Court on 31 January 1983. Imam Hidayat, Slamet Haryanto and Rasman Cahyono were sentenced to 20 years imprisonment by North Jakarta District Court.

      The hijacking of the Garuda constituted an act of terrorism in violation of the Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal, 1971, and the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 1963.

Sub-paragraph (f): What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

1. The Government of Indonesia attaches great importance to cooperation between states in combating international terrorism. As a matter of principle, the Government emphasizes the primary role of the United Nations in facilitating such cooperation. In this connection, the importance of the work within the different organs and committees of United Nations, including the General Assembly in particular through the Sixth Committee (Legal), and the Security Council in norm setting and in laying the legal framework for combating international terrorism is without question. Indonesia has actively participated in arid contributed to the discussions within these forums.

2. Likewise, Indonesia has actively been engaged in promoting cooperation between states in addressing the threat of international terrorism inter-alia within the context of the Non-Aligned Movement, the Organization of Islamic Conference, ASEAN, and APEC. in the wake of the 11th September attacks, discussions within these forums have acquired additional urgency and have resulted in concrete steps to promote cooperation between states. Statements and Declarations have been issued at the very highest level promoting and setting up mechanisms for inter-state cooperation in eradicating the threat of international terrorism (see inter-alia sub-paragraph 2 (b) above).

3. Such multilateral approaches have complemented long standing as well as more recent bilateral cooperation between Indonesia and other states including in sharing of intelligence information.

Sub-paragraph (g): How do border controls in your country prevent the movement of terrorists? Bow do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

1. Indonesia has established close cooperation with its neighbors in order to prevent the movement and infiltration of terrorists. Such cooperation include within the context of the Malaysia-Indonesia Joint Border Committee. Among the fields of cooperative activity covered include:

   a. Monitoring arid collecting of intelligence data along the two countries' border;
   b. Exchange of intelligence information;
   c. Joint land and sea patrol (air patrol is currently being studied);
   d. Coordination in patrol;
   e. Deployment of troops in border area.

2. Similar cooperation with the Philippines, Singapore and Papua New Guinea is being considered.

3. The existing procedures for the issuance of identity papers and travel documents help to prevent the movement of terrorist. The procedure includes the following:

   a. Immigration officials are notified of names of suspected terrorists through "red notice" from the appropriate and competent security authorities and would include them in the list of individuals who are denied entry to the country.

   b. The issuance of Indonesian passports and travel documents must satisfy that the individual concerned is not included in the list mentioned above.

   c. Enhanced anti-forgery features for Indonesian passports and travel documents are being prepared.

   d. Training of immigration personnel to be able to identify forged passports and visas.

e. Cooperation with counterparts such as the US Immigration and Naturalization (INS) arid Department of Immigration and Multi-cultural Affairs of Australia including in the form of technical training as part of human resources capacity building.

f. With respect to the promotion of border control, national and regional efforts have been introduced including the setting up of the establishment of a special inter-departmental Task Force on illegal migrant and through the Regional Framework of the Prevention of Cross border Terrorism.

Operative paragraph 3

Sub-paragraph (a): What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

1. In addition to the steps cited in sub-paragraph 2 (b), (f) and (g) above, the TNI Strategic intelligence Agency (BAIS-TNI) has carried out intelligence exchange and sharing activities directly with its counterparts as well as through seminars, Such exchange of intelligence is focused on the threat of international terrorism in their respective country or in particular region.

2. To illustrate cooperation through multilateral approach, the BAIS-TNI participated in the "Counter Terrorism Conference" which was held in Kuala Lumpur on 29 January - 1 February 2001. In addition, during the year 2001, BAIS-TNI also organized bilateral intelligence sharing seminars with their counterparts from three countries, namely Thailand (in Jakarta on 23 January 2001), Malaysia (in Jakarta on 24 August 2001), and the Philippines (in Jakarta, 25 September 2001).

3. From the operational aspects, BAIS-TNI has established bilateral cooperation with their counterparts to uncover any international terrorist networks which may exist in Indonesia. Through such cooperation, the BAIS-TNI would immediately follow up information obtained, in cooperation the Directorate General for Immigration, to monitor the movement of individuals suspected of belonging to international terrorist network and to uncover such network. However, to this date, the individuals mentioned in the intelligence shared by BAIS-TNI's counterparts have not been located in Indonesia.

Sub-paragraph (b): What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

1. In addition to steps mentioned in sub-paragraph 2 (b), 2 (f), and 2 (g) above, Indonesia has established bilateral extradition agreements with Australia, the Philippines. Malaysia, Thailand, Hongkong and Republic of Korea. Moreover, Indonesia has established mutual legal assistance with Australia and China.

2. Bilateral extradition agreement with Australia was concluded on 22 April 1992 in Jakarta and was ratified in Law No. 8 Year 1994 on 2 November 1994. Bilateral extradition agreement with the Philippines was concluded on 10 February 1976 in Jakarta and was ratified in Law No. 10 Year 1976 on 26 July 1976. Bilateral extradition agreement with Malaysia was concluded on 7 June 1974 in Jakarta and was ratified in Law No. 9 Year 1974 on 26 December 1974. Bilateral extradition with Thailand was concluded on 29 June 1976 in Bangkok and was ratified in Law No. 2 Year 1978 on 18 March 1978. Bilateral extradition agreement with Hongkong was concluded on 5 May 1977 and was ratified in Law No. 1 Year 2001. Mutual Legal Assistance with Australia was concluded on 27 October 1995 and was ratified in Law No. 1 Year 1999. Mutual Legal Assistance with China was concluded on 24 July 2000.

Sub-paragraph (c): What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

In addition to the steps mentioned in sub-paragraph 2 (b), 2 (f) and 2 (g) above, within the context of Organization of Islamic Conference, the OIC Foreign Ministers Joint Communique of the Ninth Extraordinary Session issued in Doha, Qatar, on 10 October 2001 also had references to the importance of counter-terrorism cooperation namely the readiness of OIC member countries to cooperate under the auspices of the United Nations to collectively eradicate the sources of international terrorism.

Sub-paragraph (d): What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

1. On 24 September 2001, the Minister of Foreign Affairs of Indonesia has signed "International Convention for the Suppression of the Financing Terrorism, 1999" in UN Headquarters in New York.

2. Currently, Indonesia is in the process of ratifying the aforementioned Convention and in the process of acceding to the "International Convention for the Suppression of the Terrorist Bombings, 1997". In pursuit of such outcome, the Department of Justice and Human Rights is serving as the focal point for an inter-departmental committee which coordinates the process of ratification and accession of the Conventions. The inter-departmental committee will study the provisions contained in the Conventions and make necessary recommendations to the President for possible amendments or modifications of existing national laws, inter-ails, national laws on Banking and/or the penal code of Indonesia.

3. Through Law no. 2 1976, Indonesia has ratified the Convention for the Suppression of Unlawful Seizure of Civil Aviation", the Hague, 1970, The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation", Montreal, 1971 and the Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 1963.

4. In addition, Indonesia is examining the possibility of ratifying "the Convention Against Transnational Crime, 2000" along with its Optional Protocols, named "Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children" and "Protocol Against Smuggling of Migrant by Land, Air and Sea," The Minister for Justice and Human Rights of Indonesia signed the aforementioned Convention on 12 December 2000.

Sub-paragraph (e): Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

In addition to the to steps mentioned in sub-paragraph 1 (a.) above, Indonesia has set up an inter-departmental working group under the coordination of the Directorate for International Organizations of the Department of Foreign Affairs pursuant to paragraph 6 of Security Council resolution 1373 (2001). The inter-departmental working group consists relevant government institutions including Bank Indonesia, arid National Police. The main task of the working group is to prepare the Government's report on its obligation towards the United Security Council 1373 (2001) and 1269 (1999). In addition, the Government is preparing the establishment of a special interdepartmental Task Force by a Presidential Decree to address the threat of international terrorism.

Sub-paragraph (f): **What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status, Please supply examples of any relevant cases.**

1. As non-party to the United Nations Convention on Status and Treatment of Refugees, 1951 and its Protocol, 1967 contain therein, Indonesia does not have specific national laws to deal with refugees or asylum seekers. It does, however, work closely with the representatives of the United Nations High Commissioner for Refugees in Indonesia and the International Organization of Migration in examining the status of persons applying for refugees and or asylum seekers status. The exclusion of persons who commit terrorist acts or is considered a danger to national security is primary.

2. More recently, Indonesia has set up an interdepartmental task force to deal with irregular migrants. The task force consists of relevant government institutions and also have the function and power to establish national policies to tackle the problem of illegal migrants in Indonesia. In the future, the national policies will be formulated into a Presidential Decree.

3. Also reflective of Indonesia's recognition of the urgent nature of the problem of irregular migrants, Indonesia has taken the initiative in convening a regional conference on people smuggling, trafficking in persons and other related transnational crimes on 27-28 February 2001. The initiative is based on the recognition that these urgent issues need to be overcome on a regional rather than national or bilateral basis and of recognition about the close linkage between the issues and other transnational threats such as international terrorism.

Sub-paragraph (g): **What procedures are in place to prevent the abuse of refugee status by terrorist? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.**

1. The United Nations High Commissioner for Refugee Offices in Indonesia is the competent authority that screens and make decision for granting refugees status. Indonesia, as has been stated above, is not party to the United Nations Convention of the Status and Treatment of Refugees. Therefore, Indonesia is advantaged in not becoming a country of destination for refugees. Illegal migrants entering Indonesia arc processed by the UNHCR to determine their refugee status. Those who fail to meet this standard are processed and assisted by the IOM. The Government of Indonesia has a well established tradition of cooperation with the UNHCR and ICM in dealing with irregular migrants, including in dealing with Vietnamese refugees who were once processed at the Indonesian island of Galang. Existing laws and regulations relating to immigration as well as through the cooperation with the UNHCR and ICM mentioned above, would help ensure the prevention of the abuse of refugee status by terrorists.

2. Under the national law no. 1 year 1979 on extradition (in particular article 5 (1)), Indonesia considers that political crime could not be serve as the ground for extradition. The national law no. 1 year 1979, is in conformity with the basic principle of international law relating with the principle of non-extradition of political crime.

II. CONCLUSIONS

Indonesia is committed to implement the provisions of Security Council resolutions 1373 (2001). For it is consistent with its own national efforts to eradicate the threat of terrorism which has the potential to threaten the process of reform and democracy. It is also consistent with its principled position on the pivotal role of the United Nations in combating acts of international terrorism which constitute a threat to international peace and security.

In following up Security Council resolution 1373 (2001), Indonesia's efforts also extends to its immediate region and beyond. Cooperation in this field between states in Southeast Asia, especially through ASEAN. the Southwest Pacific, inter alia, through Indonesia's initiative to promote a forum for dialogue among countries of this region, and also East Asia in general, including through APEC and also through a region-wide ministerial conference on transnational crimes, are cases in point.

Such cooperation is vital since the sustainability of efforts to eradicate the threat of international terrorism requires countries to work together in capacity and institution building, especially as they relate to developing countries. Such cooperation could take the form of training and exchange of intelligence information, bilaterally as well as within multilateral setting.

As we enter the new millennium, Indonesia is convinced that such steps would help contribute to the eradication of the threat of international terrorism.

Appendices:

I. Statement by the Government of the Republic of Indonesia on the Tragic Incidents in New York and Washington, D.C., 11 September 2001;
II. Press statement by the Department of Foreign Affairs on the adoption of Security Council resolution 1373 (2001);
III. 2001 ASEAN Declaration on Joint Action to counter terrorism, Bandar Seri Begawan, 5-6 November 2001;
IV. Final Communiqué of the Ninth Extraordinary Session of the Islamic Conference of Foreign Ministers, Doha, Qatar, 10 October 2001;
V. APEC Economic Leaders' Statement on Counter-terrorism, Shanghai, China, 21 October 2001.

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Appendix I

Statement by the Government of the Republic of Indonesia on the tragic incidents in New York and Washington, D.C.*

The Government of the Republic of Indonesia learned with great shock of the tragic incidents that occurred today simultaneously in New York and Washington, D.C.

The Government of Indonesia condemned those barbaric and indiscriminate attacks that have resulted in a great number of innocent people having lost their lives and being wounded, as well as material damage caused by these attacks.

The Government of Indonesia expressed its deepest condolences and sympathy to the Government and people of the United States of America, especially to the bereaved families who lost their loved ones in this tragedy.

The Government of Indonesia has instructed its missions in New York and Washington, D.C. to take all necessary measures to assist any Indonesian citizen who might be among the victims in those incidents.

Jakarta, 11 September 2001

* Unofficial translation.

Appendix II

Press statement by the Department of Foreign Affairs on the adoption of Security Council resolution 1373 (2001)

Indonesia commits to implement Security Council resolution 1373 (2001) on terrorism

The Government of Indonesia welcomes the unanimous adoption of Security Council resolution 1373 (2001) on 28 September 2001. Through the resolution, the Security Council decides, inter alia, that States shall take certain measures, including freezing without delay funds and other financial assets of persons or entities who commit, participate in or facilitate terrorist acts.

Resolution 1373 (2001) provides yet another evidence of the international community's determination to cooperate closely in preventing and suppressing terrorist acts. It further strengthens the range of instruments within the United Nations system designed to address the scourge of terrorism. The universal membership of the United Nations places it in a unique position to advance this global effort.

As a State Member of the United Nations, Indonesia is committed to fully implement its obligations and responsibilities under Security Council resolution 1373 (2001). The Government is presently taking measures to implement the aforementioned resolution and will submit a report to the Committee established by the resolution within the time frame indicated (90 days).

Jakarta, 5 October 2001

Appendix III

2001 ASEAN Declaration on Joint Action to Counter Terrorism, Bandar Seri Begawan, 5-6 November 2001

We, the Heads of State/Government of the Association of Southeast Asian Nations (ASEAN) gathered in Bandar Seri Begawan for the Seventh ASEAN Summit,

Recalling the agreement among Heads of State/Government during the Second Informal Summit in December 1997 in Kuala Lumpur to take firm and stern measures to combat transnational crime,

Reaffirming our primary responsibility in ensuring the peaceful and progressive development of our respective countries and our region,

Deeply concerned over the formidable challenge posed by terrorism to regional and international peace and stability as well as to economic development,

Underlining the importance of strengthening regional and international cooperation in meeting the challenges confronting us,

Do hereby,

Unequivocally condemn in the strongest terms the horrifying terrorist attacks in New York City, Washington DC and Pennsylvania on 11 September 2001 and consider such acts as an attack against humanity and an assault on all of us;

Extend our deepest sympathy and condolences to the people and Government of the United States of America and the families of the victims from nations all around the world, including those of our nationals;

View acts of terrorism in all its forms and manifestations, committed wherever, whenever and by whomsoever, as a profound threat to international peace and security which require concerted action to protect and defend all peoples and the peace and security of the world;

Reject any attempt to link terrorism with any religion or race;

Believe terrorism to be a direct challenge to the attainment of peace, progress and prosperity of ASEAN and the realisation of ASEAN Vision 2020;

Commit to counter, prevent and suppress all forms of terrorist acts in accordance with the Charter of the United Nations and other international law, especially taking into account the importance of all relevant UN resolutions;

Ensure that, in observing the above, all cooperative efforts to combat terrorism at the regional level shall consider joint practical counter-terrorism measures in line with specific circumstances in the region and in each member country;

Recommit ourselves to pursue effective policies and strategies aimed at enhancing the well-being of our people, which will be our national contribution in the fight against terrorism;

Note that, towards this end, ASEAN had established a regional framework for fighting transnational crime and adopted an ASEAN Plan of Action that outlines a cohesive regional strategy to prevent, control and neutralise transnational crime;

Approve fully the initiatives of the Third ASEAN Ministers Meeting on Transnational Crime (AMMTC) held in October 2001 to focus on terrorism and deal effectively with the issue at all levels and endorse the convening of an Ad Hoc Experts Group Meeting and special sessions of the SOMTC and AMMTC that will focus on terrorism;

Warmly welcome Malaysia's offer to host the Special AMMTC on issues of terrorism in April 2002. This meeting would represent a significant step by ASEAN to the United Nations' call to enhance coordination of national, sub-regional and international efforts to strengthen a global response to this serious challenge and threat to international security;

In strengthening further ASEAN's counter-terrorism efforts, we task our Ministers concerned to follow-up on the implementation of this declaration to advance ASEAN's efforts to fight terrorism by undertaking the following additional practical measures.

1. Review and strengthen our national mechanisms to combat terrorism;

2. Call for the early signing/ratification of or accession to all relevant anti-terrorist conventions including the International Convention for the Suppression of the Financing of Terrorism;

3. Deepen cooperation among our front-line law enforcement agencies in combatting terrorism and sharing "best practices";

4. Study relevant international conventions on terrorism with the view to integrating them with ASEAN mechanisms on combating international terrorism;

5. Enhance information/intelligence exchange to facilitate the flow of information, in particular, on terrorists and terrorist organisations, their movement and funding, and any other information needed to protect lives, property and the security of all modes of travel;

6. Strengthen existing cooperation and coordination between the AMMTC and other relevant ASEAN bodies in countering, preventing and suppressing all forms of terrorists acts. Particular attention would be paid to finding ways to combat terrorist organisations, support infrastructure and funding and bringing the perpetrators to justice;

7. Develop regional capacity building programmes to enhance existing capabilities of ASEAN member countries to investigate, detect, monitor and report on terrorist acts;

8. Discuss and explore practical ideas and initiatives to increase ASEAN's role in and involvement with the international community including extra-regional partners within existing frameworks such as the ASEAN + 3, the ASEAN Dialogue Partners and the ASEAN Regional Forum (ARF), to make the fight against terrorism a truly regional and global endeavour;

9. Strengthen cooperation at bilateral, regional and international levels in combating terrorism in a comprehensive manner and affirm that at the international level the United Nations should play a major role in this regard.

We, the Leaders of ASEAN, pledge to remain seized with the matter, and call on other regions and countries to work with ASEAN in the global struggle against terrorism.

Adopted this Fifth Day of November 2001 in Bandar Seri Begawan, Brunei Darussalam.

Appendix IV

Final Communiqué of the Ninth Extraordinary Session of the Islamic Conference of Foreign Ministers, Doha, Qatar, 23 Rajab 1422H (10 October 2001)

At the gracious invitation of His Highness Sheikh Hamad Bin Khalifa Al-Thani, Emir of the State of Qatar and Chairman of the Ninth Islamic Summit Conference, the Foreign Ministers of the Member States of the Organization of the Islamic Conference held an Extraordinary Session in Doha, capital of the State of Qatar, on Wednesday 23 Rajab 1422H (10 October 2001), to discuss the repercussions of the events which took place in the United States of America and its effects world-wide and in particular on the Member States.

The Conference was opened by His Highness Sheikh Hamad Bin Khalifa Al-Thani, Emir of the State of Qatar and Chairman of the Ninth Islamic Summit Conference, by delivering an address in which he referred to the situation that resulted from the recent terrorist attacks in the United States of America and its consequences on the world in general and the Member States in particular.

His Excellency Mr. Yasser Arafat, President of the State of Palestine, then delivered a speech to the same effect as well as pointing out the grave situation prevailing in Palestinian territories.

Then a message from His Majesty King Mohammed VI of the Kingdom of Morocco and Chairman of the Al-Quds Committee was read followed by the speech of His Excellency the Secretary General of the Organization of the Islamic Conference.

The Conference paid tribute to the address of the representative of the Islamic and Arab Organizations in the United States on behalf of the Muslim communities resident in the USA. It also welcomed the Christian-Islamic delegation accompanying President Yasser Arafat.

The Conference then proceeded to elect its Bureau as follows:

-	State of Qatar	Chairman.
-	Malaysia]	Vice-Chairmen.
	Republic of Senegal]	
	State of Palestine]	
-	Republic of Mali	Rapporteur.

His Excellency Sheikh Hamad Bin Jasem Bin Jaber Al-Thani, Foreign Minister of the State of Qatar and Chairman of the Ninth Extraordinary Session of the Foreign Ministers of the Member States of the Organization of the Islamic Conference then assumed the chairmanship of the Conference.

After debate and discussion, the Conference reached the following conclusions:

1- The Conference strongly condemned the brutal terror acts that befell the United States, caused huge losses in human lives from various nationalities and wreaked tremendous destruction and damage in New York and Washington. It further reaffirmed that these terror acts ran counter to the teachings of the divine religions as well as ethical and human values, stressed the necessity of tracking down the perpetrators of these acts in the light of the results of investigations and bringing them to justice to inflict on them the penalty they deserve, and underscored its support of this effort. In this respect, the Conference expressed its condolences to and sympathy with the people and government of the United States and the families of the victims in these mournful and tragic circumstances.

2- The Conference, proceeding from the provisions of the OIC Convention on Combating International Terrorism, reaffirmed the willingness of its Member States to effectively contribute to an international collective effort, under the umbrella of the United Nations as the forum where all States of the world are represented, to define the phenomenon of

terrorism in all its forms and without selectiveness or double standards and contribute also to addressing its causes, eradicating its roots and achieving international security and stability.

3- The Conference stressed that such shameful terror acts are opposed to the tolerant divine message of Islam which spurns aggression, calls for peace, coexistence, tolerance and respect among people, highly prizes the dignity of human life and prohibits killing of the innocent. It further rejected any attempts alleging the existence of any connection or relation between the Islamic faith and the terrorist acts as such attempts are not in the interest of the multilateral efforts to combat terrorism and further damage relations among peoples of the world. It stressed as well the need to undertake a joint effort to promote dialogue and create links or contacts between the Islamic world and the West in order to reach mutual understanding and build bridges of confidence between the two civilizations.

4- The Conference welcomed the positions adopted by both the United States and the other countries that called on their citizens to avoid causing any harm to citizens of Arab and Islamic descent and to Arabs and Muslims residing therein. It also called on the International Community to undertake the necessary measures to protect the rights of innocent civilians and avoid causing any harm to them during the process of undertaking any preventive measures in the fight against the phenomenon of terrorism and expressed denunciation of the minority and fringe voices that have tried to cause harm to Islam and the Muslims.

5. The Conference reaffirmed the need to convene an international conference under the auspices of the United Nations to reflect the rejection of the international community of the use of terrorism in international relations, to agree on its definition, and draw up an international plan to fight terrorism within the framework of respect of the Member States' sovereignty and of international law. The United Nations, based on such universally recognized definitions and guidelines, is the legitimate body to determine engagement or support for terrorism by any State or group.

6- The Conference stressed its rejection of any linkage between terrorism and rights of the Islamic and Arab peoples, including the Palestinian and Lebanese peoples, right to self-determination, self-defense, sovereignty, resistance against Israeli and foreign occupation, all of which are legitimate rights enshrined in the United Nations Charter and international law.

7- The Conference expressed hope that preoccupation with the effects of the events which befell the United States should not lead the international community to ignore bearing its responsibilities vis-a-vis the state terrorism practiced by the Israeli Government and to which the Palestinian people is being subjected and Israel's serious escalation of the situation in the region.

8- The Conference warned Israel of the consequences of its exploitation of these events as a pretext for perpetuating its aggression against the Palestinian people and the creation of new situations in the region which are likely to jeopardize security and stability therein.

9- The Conference requested the Security Council and the Co-Sponsors of the peace process: the United States and the Russian Federation, as well as the European Union and its member states, to exert their utmost effective efforts in order to lift the blockade and stop Israel's brutal practices, provide international protection for the Palestinian people and end the Israeli occupation of all Palestinian and other Arab territories occupied since 1967.

10- The Conference stressed that the international initiative towards achieving security and stability in a world free from terrorism and injustice must also include the achievement of security and justice for the Palestinian people, the establishment of an independent Palestinian State with Al-Quds Al-Sharif as its Capital, and the protection of the Christian and Islamic holy places. In this context, the Conference also welcomed the statements of President George W. Bush about the right of the Palestinians to establish their own State which were supported by the Russian Federation, the European Union, China, Japan, the African States, the NAM countries, the international community and the United Nations, as a positive development in conformity with the resolutions of international legitimacy. It further expressed hope that the United States would immediately initiate the practical implementation of that issue and endeavor to achieve this strategic objective of establishing just and comprehensive peace for all states and peoples of the region.

11- The Conference expressed its concern over the possible consequences of the fight against terrorism including the death of innocent civilians in Afghanistan, and underlined the necessity of ensuring the territorial integrity of Afghanistan and its Islamic identity. It rejected the targeting of any Islamic or Arab State under the pretext of fighting terrorism.

12. The Conference welcomed the proposal by His Highness Sheikh Hamad Bin Khalifa Al-Thani, Emir of the State of Qatar and Chairman of the Ninth Islamic Summit, to establish a Fund to assist the Afghani people and His Highness' announcement to donate an amount of U.S. Dollars ten Million (10,000,000) to this Fund. It also welcomed the announcements of donations by the United Arab Emirates for an amount of U.S. Dollars three Million (3,000,000), and the Sultanate of Oman for an amount of U.S. Dollars one Million (1,000,000) to the Fund for assistance to the Afghan people. The Conference took note of the announcement made by His Royal Highness the Foreign Minister of the Kingdom of Saudi Arabia that the Kingdom has made a donation of ten Million Dollars to the Afghan people and that the assistance has already reached its destination in Afghanistan. It further took note that the Kingdom will contribute to the rehabilitation projects specifically developed for the people of Afghanistan and urged the rest of the Member States to continue to make donations to this noble humanitarian cause.

Done at Doha: 23 Rajab 1422H
10 October 2001.

Appendix V

APEC ECONOMIC LEADERS' STATEMENT ON COUNTER-TERRORISM

Shanghai, China
21 October 2001

1. Leaders unequivocally condemn in the strongest terms the terrorist attacks in the United States on September 11, 2001, and express their deepest sympathy and condolences to the victims of a large number of nationalities and their families and to the people and Government of the United States of America.

2. Leaders consider the murderous deeds as well as other terrorist acts in all forms and manifestations, committed wherever, whenever and by whomsoever as a profound threat to the peace, prosperity and security of all people, of all faiths, of all nations. Terrorism is also a direct challenge to APEC's vision of free, open and prosperous economies, and to the fundamental values that APEC members hold.

3. Leaders reaffirm that it is more important than ever for every economy to forge ahead in its commitment in achieving Bogor's goal of free, open trade and investment.

4. Leaders deem it imperative to strengthen international cooperation at all levels in combating terrorism in a comprehensive manner and affirm that UN should play a major role in this regard, especially taking into account the importance of all relevant UN resolutions.

5. Leaders commit to prevent and suppress all forms of terrorist acts in the future in accordance with the Charter of the United Nations and other international law, pledge to implement the UN Security Council Resolution 1368 and 1373 faithfully and immediately, strongly support all efforts to strengthen the international anti-terrorism regime, call for increased cooperation to bring perpetrators to justice, and also call for early signing and ratification of all basic universal anti-terrorist conventions including the International Convention for the Suppression of the Financing of Terrorism.

6. Leaders are determined to enhance counter-terrorism cooperation in line with specific circumstances in their respective economies, through:

- Appropriate financial measures to prevent the flow of funds to terrorists, including accelerating work on combating financial crimes through APEC Finance Ministers' working Group on Fighting Financial Crime and increasing involvement in related international standard-setting bodies;

- Adherence by all economies to relevant international requirements for the security of air and maritime transportation. Leaders call on Transport Ministers to actively take part in the discussions on enhancing airport, aircraft, and port security, achieve effective outcomes as early as possible, and assure full implementation and cooperation in this regard;

- Strengthening of energy security in the region through the mechanism of the APEC Energy Security Initiative, which examines measures to respond to temporary supply disruptions and longer-term challenges facing the region's energy supply;

- Strengthening of APEC activities in the area of critical sector protection, including telecommunications, transportation, health and energy;

- Enhancement of customs communication networks and expeditious development of a global integrated electronic customs network, which would allow customs authorities to better enforce laws while minimizing the impact on the flow of trade;

- Cooperation to develop electronic movement records systems that will enhance border security while ensuring movement of legitimate travelers is not disrupted;

- Strengthening capacity building and economic and technical cooperation to enable member economies to put into place and enforce effective counter-terrorism measures; and

- Cooperation to limit the economic fallout from the attacks and move to restore economic confidence in the region through policies and measures to increase economic growth as well as ensure stable environment for trade, investment, travel and tourism.

7. Leaders also pledge to cooperate fully to ensure that international terrorism does not disrupt economies and markets, through close communication and cooperation among economic policy and financial authorities.

United Nations S/2001/1246

Security Council

Distr.: General
26 December 2001
English
Original: Spanish

Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Spain, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71615 (E) 150102 160102

Annex

[Original: Spanish]

Note verbale dated 21 December 2001 from the Permanent Mission of Spain to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001)

The Permanent Mission of Spain to the United Nations presents its respects to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) and has the honour to transmit herewith the report submitted by Spain pursuant to paragraph 6 of resolution 1373 (2001) (see enclosure).

Enclosure

Report submitted pursuant to Security Council resolution 1373 (2001) of 28 September 2001

Paragraph 6 of Security Council Resolution 1373 (2001) calls on all States to inform the Committee on the steps taken to implement the resolution.

This report is based on the questions suggested in "Guidance for submission of reports pursuant to paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001".

Paragraph 1

1 A. Prevention and suppression of the financing of terrorist acts.

Sub-paragraph (a) - *What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?*

Action to be taken against the financing of terrorist acts is set forth in the Penal Code, which describes specific offences and establishes criminal liability based on the extent of an offender's involvement in the act. Similarly, both the prevention and the suppression of the financing of terrorist acts are also specifically envisaged in other provisions and in recently adopted legislation, as mentioned below.

1 B. Criminalize the wilful provision or collection of funds in order to carry out terrorist acts.

Sub-paragraph (b) - *What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?*

This question – as well as all the questions raised in connection with paragraph 1 – calls for a detailed reply:

1. Having lived for years under the threat of terrorism, especially as represented by the terrorist organization ETA, the Spanish authorities who deal with terrorism at all levels of responsibility have been constantly vigilant in this regard.

2. From the normative standpoint, Spanish law includes a very broad range of criminal provisions which provide protection against terrorism. Most of these provisions are included in the articles of the Penal Code that are reproduced in Annex 1 herewith.

3. The different preparatory activities leading up to terrorist acts are typified as "terrorist offences". Such activities range from conspiracy to commission. Many different types of collaboration with intent to commit terrorist acts are also criminal offences, as is the advocacy of terrorism.

The following provisions of the Penal Code (in its latest version, as amended by Organic Law 7/2000 of 22 December) deal with fund-raising and the financing of terrorism in general:

Article 575

Anyone who attempts a crime against property in order to obtain funds for the armed groups, organizations or terrorist groups mentioned above, or to further their purposes shall be punished with a penalty at the level next highest to the one prescribed for the offence committed, without prejudice to the enforcement of such penalties as are applicable under the following article for acts of collaboration.

Article 576

1. The performance, requesting or facilitation of any act of collaboration with the activities or purposes of an armed group or terrorist organization or group shall be punishable by imprisonment of five to ten years and fines equivalent to 18 to 24 months.

2. "Acts of collaboration" shall be understood to mean the supply of information on or the surveillance of persons, goods or facilities; the building, fitting-out, transfer or use of lodging or storage facilities; the concealment or movement of persons linked to armed groups or terrorist organizations or groups; the organization of training sessions or attendance at such sessions; and, in general, any other equivalent form of cooperation, assistance or complicity, economic or otherwise, with the activities of the aforementioned armed groups or terrorist organizations or groups.

The criminalization of activities related to terrorism is supplemented with the regulations on money laundering set out in the Penal Code itself, particularly articles 301 and following, the text of which is provided in Annex II.

The initiation of criminal proceedings for the aforementioned offences entails seizing the money, effects or other assets used to commit the terrorist act, the proceeds of such acts, and the effects thereof. Such seizure may be undertaken as a precautionary measure for the duration of the proceedings. This is allowed and justified in articles 13, 326, 334 and 589 of the criminal prosecution act. Given the need to safeguard the effects and instruments used to commit the offence, the means of proof and the pecuniary liabilities arising from it, the authorities may swiftly proceed to block bank accounts and take other precautionary steps to control the offenders' funds.

In addition to precautionary intervention, once the court's final ruling is handed down, the assets and funds used in furthering terrorist goals, from the preparatory stage onward shall be subject to seizure, given that they represent the effects of the offence, the instruments used to commit it and the profits thereof, regardless of any changes they may have undergone (article 127, Penal Code). Given that the criminal prosecution of terrorism begins at the very earliest stage, the seizure extends to all items used in preparing the act. Accordingly, the court-ordered "freezing of assets" covers all such items.

1 C. Freeze without delay funds and other financial assets of persons who commit, or attempt to commit, terrorist acts and of entities linked to such persons.

Sub-paragraph (c) - *What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.*

In addition to the aforementioned court-ordered freezing of funds and financial assets, the freezing of funds and assets in third-party countries with respect to persons involved in terrorist acts is provided for in article 2, paragraphs 3 and 4, of law 40/1979, on exchange controls, of 20 December, which were added by law 41/1999, of 12 November, on payment systems. Paragraph 3 provides for the domestic application of measures aimed at freezing the movement of funds to and from other countries, when such measures have been adopted by the European Union; paragraph 4 deals with measures adopted by international organizations of which Spain is a member. Furthermore, the relevant European regulations (Council decision of 6 March 2001 and Commission decisions of 4 July 2001 and 12 November 2001) are effective, directly applicable and prevalent; hence, they are directly enforceable in our legal system.

Article 3 of law 19/1993 of 28 December, on measures for the prevention of money laundering, imposes a number of obligations on financial entities and other persons involved in the transfer of capital, collection, payments and other transactions that are a part of daily life. Such entities and individuals must refrain from conducting any transaction in which the issuer or recipient of funds might be a person linked to activities involving armed groups or terrorist organizations or groups. This obligation may be interpreted as including the

freezing of balances pursuant to the United Nations resolution in question. Such freezing would be effective even in the case of domestic movements of funds.

It should be noted that the Committee of Ministers, meeting on 30 November 2001, approved an agreement designed to facilitate compliance with United Nations Security Council Resolution 1267 (1999) and related Security Council resolutions, in the spirit of resolution 1373 (2001), as well as Council regulation CE 467/2001, of 6 March 2001, concerning terrorist organizations and groups. These are listed in an annex which includes a consolidated list of organizations and persons identified by the Committee established pursuant to Security Council resolution 1267 (1999).

In keeping with the principles which inspired resolution 1373 (2001), at the aforementioned Committee of Ministers of 30 November, draft legislation on the prevention and suppression of the financing of terrorism was introduced which envisages the creation of a terrorism financing oversight committee. This committee would be empowered to block balances, accounts and positions opened by persons or entities linked to terrorist organizations with the entities referred to in the bill.

1 D. Prohibit their nations or any persons and entities within their territories from making funds available for the benefit of persons who commit or attempt to commit terrorist acts.

Sub-paragraph (d) - *What measures exist to prohibit the activities listed in this sub-paragraph?*

The prohibition envisaged in this paragraph follows from the criminalization of the activities referred to in sub-paragraph 1 B and the freezing of assets referred to in sub-paragraph 1 C. Hence, the two preceding sections also apply to this sub-paragraph.

2 A. Refrain from providing any form of support to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and the supply of weapons to terrorists.

Sub-paragraph (a) - *"What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups, and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?*

Legislation:

The Spanish Penal Code, which was approved pursuant to Organic Law 10/1995 of 23 November, punishes any act of collaboration with armed groups or terrorist organizations or groups (art. 576). The recruitment of members would constitute a form of collaboration. In addition, Organic Law 7/2000, of 23 December, provides for special measures in cases involving persons under 18 years of age who commit terrorist offences, given the involvement of minors in terrorist activities in Spain.

Article 573 of the Penal Code provides penalties for the storing of weapons or munitions and the possession or storage of explosive, flammable, incendiary or asphyxiating substances or devices or components thereof, as well as their manufacture, trafficking, transport or supply, in any form, and the mere placement or use of such substances or of other means or contrivances for achieving the same purpose by persons acting at the service of or in collaboration with armed groups, organizations, or terrorist groups.

The Organic Law on the safeguarding of public security (L.O. 1/1992 of 23 February) establishes strict guidelines for preventive action and vigilance with respect to the manufacture and repair of weapons, imitations and reproductions thereof and their basic components; explosives, cartridges and pyrotechnic devices; and the circulation, storage and merchandising, acquisition, sale, possession and use of such items.

Steps taken:

Our legislation provides for the following steps to be taken to prevent the procurement of weapons:

(a) In order to open for business and operate, all factories, workshops, storage facilities, sales establishments, shooting galleries and related activities are subject to requirements relating to registration or classification, licensing, reporting, inspection, oversight and control; in addition, the staff responsible for handling weapons must be duly qualified.

(b) Licenses or permits for the possession and use of firearms are mandatory and are issued subject to certain restrictions, especially in the case of weapons of personal defence, for which licenses or permits are issued only when strictly necessary.

(c) Certain especially dangerous weapons, munitions and explosives are prohibited, as is their storage.

(d) The manufacture, marketing or distribution of weapons and explosives are subject to special licensing regulations under the laws governing foreign investments in Spain, and in any event, are under the oversight of the Ministries of Defence and of the Interior.

Spain is an active participant in the major international forums for the discussion and exchange of information on the trafficking of arms and weapons of mass destruction.

Information is exchanged and joint analyses are carried out by the various units specialized in the deactivation of explosives.

After the tragic attacks of 11 September, Spain has intensified its controls over goods that could be used to manufacture weapons of mass destruction.

During the first half of 2002, Spain will assume the Presidency of the European Union. One of its objectives will be to strengthen police cooperation and existing crime-prevention instruments, particularly in matters pertaining to youth, drugs and urban crime, with special attention to the training of youth by violent organizations.

2 B. Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information

Sub-paragraph (b) – *What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?*

Legislation:

Spain has signed many international and community commitments which provide mechanisms for the rapid exchange of information, including the following:

- The Schengen agreement
- The Europol agreement
- The Interpol agreement

In recent years, Spain has also signed a number of bilateral agreements on cooperation in combating crime which include the struggle against terrorism.

Steps taken:

Collaboration with other countries:

Transfer of information on terrorist groups and movements of their activists.

Exchange of information through liaison officers in and from other countries.

Exchange of techniques and experiences with other services involved in combating terrorism, including joint training programmes.

Participation of experts and exchange of information at bilateral or multilateral meetings on techniques and methods for the forgery of identity papers, passports, visas, residence permits, etc.

Exchange of information and analyses with a view to assessing terrorist threats.

On the domestic front, after the events of 11 September we adopted the following:

- A specific plan of action to be implemented in the event of a terrorist attack with conventional weapons.
- Preventive and rapid-response measures to neutralize a terrorist attack or attempted attack with chemical or biological materials.
- An operational preventive plan for studying and gaining knowledge about the ideology, objectives, modus operandi, etc., of the various terrorist organizations.

2 C. Deny safe haven to those who commit or collaborate in terrorist acts.

Sub-paragraph (c) – *What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.*

Legislation:

Law 5/1984 of 26 March, on the right of asylum and the status of refugees, as amended by law 9/1994 of 19 May, stipulates that asylum shall not be granted to persons covered by the provisions of articles 1F and 33.2 of the 1951 Geneva Convention relating to the Status of Refugees. Acts of terrorism are covered by these provisions, in particular article 1.F(b), which refers to serious non-political crimes.

Article 5.6 of the law on asylum provides that in the aforementioned cases, even a request for asylum may be dismissed directly.

The law on the rights and freedoms of foreigners in Spain and their social integration (L.O 4/00 of 11 January, amended by L.O. 8/00 of 22 December) provides that foreigners shall be refused entry into Spain when there are legally established grounds for doing so or when such action is allowed under international agreements (art. 26). Article 54 of the law establishes as a serious offence participation in activities that threaten the external security of the State or which might be detrimental to the relations of Spain with other countries. Such activities are punishable with expulsion from the Spanish territory (art. 57).

Steps taken:

The concept of terrorist offence is a very broad one in our criminal law, which precludes granting asylum to terrorists. This prohibition covers not only those directly and materially responsible for committing an act but

also the intellectual instigators and persons involved in planning it, those in charge of raising funds or providing logistical support to the direct perpetrators, and others.

2 D. Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens.

Sub-paragraph (d) – *What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.*

Legislation:

The passive extradition law of 21 March 1985 provides that terrorist acts may not be considered political offences for the purpose of refusing extradition.

Spain is a party to many bilateral and multilateral agreements relating to extradition. It has ratified the two European Conventions on the matter (1995 and 1996). It is also a party to the 1957 European Convention on Extradition.

The European Union has adopted the framework decision on the European Arrest Warrant, which will supersede extradition proceedings and the double criminality requirement for certain offences, including the offence of terrorism.

The European Union has also adopted a framework decision on combating terrorism, which includes a broad definition of terrorist offences and is linked to the framework decision on the European Arrest Warrant.

Steps taken:

After 11 September, Spain intensified efforts to trace the possible contacts of persons in our country with organizations of the type which concerns us.

In 2001, Spain conducted a number of major operations against Islamic terrorist networks, as follows:

- Spain collaborated with Italy in breaking up the "Varesse" group.
- The terrorist Mohamed Bensakhria, who has links to Ben Laden and is the leader of the "Meliani" group, was arrested and extradited to France.
- In September, members of a cell of the Grupo Salafista para la Predicación y el Combate were arrested in different cities in Spain.
- In November, 11 citizens who had ties with Al Qaida were arrested in Madrid.

Spain is also actively collaborating with Europol in regard to the supply and exchange of information on terrorist groups.

2 E. Ensure that any person who commits or collaborates in terrorist acts is brought to justice. Ensure that such terrorist acts are established as serious criminal offences. Ensure that the punishment duly reflects the seriousness of such terrorist acts.

Sub-paragraph (e) – *What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.*

Legislation:

As mentioned under sub-paragraph 1 B and as reflected in the articles of the Penal Code reproduced in Annex I, Spanish penal law includes comprehensive definitions of terrorist offences.

The Penal Code establishes severe penalties for all terrorist offences which are proportional to the seriousness of the offence committed. Terrorist offences are specifically defined and harsher penalties are prescribed for them than for ordinary offences that are not committed for terrorist purposes. For example:

Murder: 15 to 20 years
Murder for terrorist ends: 20 to 30 years

Prosecution of terrorist offences may be carried out through either ordinary or summary proceedings, depending on the penalty stipulated for the act. In either case, the guarantees set forth in article 24 of the Constitution are provided, namely, effective protection, a judge presiding over ordinary proceedings as established by law, right to legal counsel and assistance, public trial without undue delay and with guarantees, use of means of proof for the defence, right not to incriminate oneself and not to confess guilt, and right to the presumption of innocence.

The Organic Law of the judiciary branch (L O 6/1965 of 1 July) establishes that Spanish courts are competent to take cognizance of acts that constitute terrorist offences under Spanish law which are committed by Spanish nationals and foreigners outside the national territory. This is in keeping with the principle of universal justice (art. 23.4).

The Organic Law of the judiciary branch assigns responsibility for considering terrorist offences to a judicial body which has competence throughout the national territory, i.e., the Audiencia Nacional.

Our procedural legislation provides for certain steps to be taken in connection with the investigation of terrorist offences covered by article 55 of the Spanish Constitution. Under this article, an organic law may stipulate how and in what cases –with the requisite court order and adequate parliamentary oversight–the rights referred to in article 17.2 (maximum duration of preventive detention) and article 18.2 and 3 (inviolability of domicile and secrecy of communications) may be suspended for certain persons in connection with investigations pertaining to the action of armed bands or terrorists. Thus, our legislation on penal procedures provides:

Detention by the police may be extended 48 hours beyond the initial 72 hours, provided that such extension is requested in a formal, well-founded communication within the first 48 hours of detention and that it is authorized by the judge within the next 24 hours (art. 520 bis of the criminal prosecution act).

Detainees may be kept incommunicado, by court order (520 bis).

Police authorities may detain suspected terrorists in whatever place or domicile they may be hiding or taking refuge and, in connection with the detention, they may conduct searches in those places and seize the effects and instruments they may find there which might be linked to the offence committed (art. 553 of the criminal prosecution act).

Eavesdropping is allowed when ordered by the Minister of the Interior or, in his absence, by the Director of State Security; the relevant order must be immediately transmitted in writing to the competent judge, who must either revoke or confirm it within a maximum period of 72 hours, clearly stating the reasons for his decision (art. 579.4).

Penalties are proportional to the seriousness of the offence committed and are increased in the case of offences committed for terrorist purposes.

The Penal Code establishes serious penalties for all terrorist offences. Terrorist offences are specifically defined and harsher penalties are prescribed for them than for ordinary offences that are not committed for terrorist purposes. For example:

Murder: 15 to 20 years
Murder for terrorist ends: 20 to 30 years

Under our Penal Code, in all cases of offences linked with terrorist activities, a sentence handed down by foreign judges or courts is brought in line with the equivalent sentence that would be applied by Spanish judges and courts, when the aggravating circumstance of repeat offences exists (art. 580).

2 F. Afford one another assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts.

Sub-paragraph (f) – *What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been used in practice.*

Legislation:

Spain has ratified 11 of the 12 United Nations conventions on terrorism. The International Convention for the Suppression of the Financing of Terrorism is currently up for ratification in Parliament.

In 1980, Spain signed the European Convention on the Suppression of Terrorism, of 27 January 1977. In recent years, Spain has entered into a number of bilateral agreements on organized crime, including terrorism, which lay down the requirements for cooperation between States Parties.

Thus, Spain has signed bilateral agreements that are directly or indirectly related to the struggle against terrorism, including the following:

*Agreement between Spain and Italy on cooperation in the fight against terrorism and organized crime (12 May 1987)

*Agreement between Spain and Bulgaria for cooperation in the fight against delinquency (21 July 1998)

*Agreement between the Ministers of the Interior of Spain and Hungary for cooperation in the fight against terrorism, illicit international trafficking of narcotic substances and organized crime (2 March 1992)

*Agreement between Spain and the Slovak Republic on cooperation in respect of the fight against organized delinquency (3 March 1999)

*Agreement between Spain and the Russian Federation on cooperation in the fight against delinquency (17 May 1999)

*Agreement between Spain and Poland on cooperation in respect of the fight against delinquency (17 May 1999)

*Agreement between Spain and the People's Republic of China on cooperation in the fight against organized delinquency (25 June 2000)

*Agreement between Spain and Ukraine on cooperation in respect of the fight against delinquency (7 November 2001)

In regard to extradition, Spain has signed the Council of Europe Convention on Extradition and the two European Union conventions of 1995 and 1996. It has also ratified a number of bilateral agreements on the question. Rules

for police cooperation are established in other international and Community instruments which are applicable in Spain, including the Interpol agreement, the Schengen agreement and the Europol agreement.

It is worth mentioning the Conference of Ministers of the Interior of Western Mediterranean Countries, an informal forum for cooperation created in 1995 which meets every year. This group currently includes the ministers of the interior of Algeria, France, Italy, Libya, Malta, Morocco, Portugal, Tunisia and Spain. Terrorism is one of the issues the ministers consider at their annual meetings. In addition, meetings of experts from all the States are held in the framework of the Conference to discuss the different items on its agenda.

In the context of the European Union, the European Convention on Mutual Assistance in Criminal Matters was signed on 29 May 2000. A Protocol to this Convention was signed on 16 October 2001 which provides for additional measures pertaining to judicial assistance in criminal matters with a view to combating delinquency, particularly organized crime, money laundering and financial offences.

The European Union is also in the process of adopting the framework decision on joint investigation teams, which would deal in particular with terrorist offences. The proposal on this decision was submitted by Belgium, Spain, France and the United Kingdom. The draft framework decision also provides for the participation in the joint teams of persons representing the competent authorities of States that are not members of the European Union.

As mentioned above, in the European Union, Spain has promoted the adoption of two instruments -- the European Arrest Warrant and the framework decision on combating terrorism-- that will play a decisive role in encouraging cooperation within the European legal system in the fight against terrorism.

The European Union will soon be adopting the framework decision on the execution in the European Union of orders freezing assets or evidence. The scope of this decision has been broadened to include offences related to terrorism.

In addition to direct and immediate cooperation between judges and magistrates (assistance, freezing of assets, handing over of persons), the European Judicial Network and provisional Eurojust are already in operation. The definitive Eurojust and the joint investigation teams envisaged in the aforementioned European Convention on Mutual Assistance in Criminal Matters will be approved during this month of December.

Steps taken:

Ongoing exchange of information among international police agencies (Interpol, Europol, etc.).

2 G. Prevent the movement of terrorists.

Sub-paragraph (g) – *How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?*

Legislation:

The Organic Law on the rights and freedoms of foreigners in Spain includes rules on the entry of foreigners into Spain and the duration of their stay.

Under article 26 of this law and article 26 of the regulations thereto, which were adopted by Royal Decree 884/2001 of 20 July, foreigners shall be refused admittance and their access to Spanish territory shall be prohibited, even if they meet the requirements for admittance when, among other factors,

- It has been found, through diplomatic channels, through Interpol or through any other means of international, judicial or police cooperation, that they are being sought in connection with criminal proceedings arising from serious common offences by the judicial or police authorities of other countries, provided that the acts for which they are sought constitute offences in Spain.
- When they have been expressly barred by a decision of the Minister of the Interior as a result of their having engaged in activities that are contrary to the interests of Spain or in violation of human rights, or of their having well-known connections with national or international criminal organizations.

Likewise, they may be refused entry under the provisions of international agreements to which Spain is a party, unless it is considered necessary to make an exception for humanitarian reasons or on grounds of the national interest.

Steps taken:

Security has been considerably strengthened in aircraft and airports, and at our land and maritime borders.

Investigations are underway to discover clandestine border crossings organized both by members of terrorist organizations and by common criminals.

Selective checks are being made of persons who are nationals of areas where terrorist groups and organizations operate.

Special attention is being paid to persons who might have participated in armed conflicts in geographical areas or countries where terrorist organizations have been formed or where such organizations might have been active.

Local consular cooperation within the European Union is also being strengthened.

Among its objectives for the Presidency of the European Union during the first half of 2002, Spain plans to promote the creation of a European visa databank that will allow authorities to determine in which cases visas have been granted or refused in the European Union countries. It also plans to propose improvements in the operation of the Schengen Information System with a view to enhancing the efficiency of border controls and the fight against terrorism.

3 A. Find ways of intensifying and accelerating the exchange of operational information.

Sub-paragraph (a) – *What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?*

Steps taken since 11 September:

- Strengthening of Europol structures for combating terrorism
- Meetings of chiefs of anti-terrorism units within the European Union
- Preparation, in the framework of the European Union, of a list of terrorist organizations
- Promotion of the creation of joint investigation teams in the European Union

Exchanges of information have also been carried out in the context of bilateral agreements.

3 B. Exchange information on administrative and judicial matters.

Sub-paragraph (b) – *What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?*

Steps taken

As mentioned above, the adoption of the framework decision on the European Arrest Warrant will promote judicial cooperation within the European Union.

The European Union has strengthened local consular cooperation, as noted above.

3 C. Cooperate through multilateral agreements, to prevent terrorist acts and take action against perpetrators of such acts.

Sub-paragraph (c) – *What steps have been taken to cooperate in the areas indicated in this sub-paragraph?*

Spain has signed a significant number of international instruments relating to the fight against terrorism, including the following:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963 (ratified by Spain by Instrument dated 25 August 1969)
- Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970 (ratified by Spain by Instrument dated 30 October 1972)
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971 (ratified by Spain by Instrument dated 6 October 1972)
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (ratified by Spain by Instrument dated 8 August 1985)
- International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 (ratified by Spain by Instrument dated 9 March 1984)
- Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980 (ratified by Spain by Instrument dated 20 April 1987)
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988 (ratified by Spain by Instrument dated 8 April 1991)
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988 (ratified by Spain by Instrument dated 15 June 1989)
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988 (ratified by Spain by Instrument dated 15 June 1989)
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991 (ratified by Spain by Instrument dated 23 February 1994)
- International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1977 (ratified by Spain by Instrument dated 22 April 1999)

Moreover, in 1980 Spain signed the European Convention on the Suppression of Terrorism, of 27 January 1977, as well as a number of bilateral agreements on organized crime, including terrorism, which lay down the requirements for cooperation between the States Parties, as noted under sub-paragraph 2 F.

3 D. Become parties to the relevant international conventions relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism.

Sub-paragraph (d) – *What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?*

As noted above, Spain has ratified 11 of the 12 United Nations Conventions against terrorism. The twelfth, the International Convention for the Suppression of the Financing of Terrorism, was signed by Spain on 8 January

2001 and is currently in Parliament for ratification. It has already been approved by the plenary of the Congress of Deputies and only the Senate's approval is now pending.

3 E. Increase cooperation and fully implement the relevant international conventions relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001).

Sub-paragraph (e) – *Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.*

As noted above, Spain promotes international cooperation in the struggle against terrorism through its participation in international conventions, especially those adopted by the United Nations. It has also been an active supporter of the comprehensive draft international convention on terrorism which is being negotiated in the United Nations on the basis of the Indian proposal.

Spain has played a decisive role in the adoption by different international organizations of declarations against terrorism, including the following:

*Code of conduct against terrorism adopted by the meeting of experts on terrorism of the Mediterranean Forum (22 February 2000)

*United Nations Educational, Scientific and Cultural Organization (UNESCO) resolution condemning terrorism (20 October 2001)

*Council of Europe statement on international action against terrorism at the 109th session of the Committee of Ministers (8 November 2001)

*Political declaration against terrorism by the Heads of State and Government of the Ibero-American Community meeting in Lima (24 November 2001)

*Ministerial Declaration adopted in Bucharest by the Ministerial Council of the Organization for Security and Co-operation in Europe (OSCE) (3-4 December 2001)

*OSCE decision containing a Declaration and Plan of Action against terrorism (3-4 December 2001)

As regards the North Atlantic Treaty Organization (NATO), the North Atlantic Council issued a statement on 12 September 2001 to the effect that the terrorist attack of 11 September was directed from abroad against the United States and should be regarded as an action covered by Article 5 of the Washington Treaty. Spain promoted the statement on the NATO response to terrorism which was issued by the Ministerial Meeting of the North Atlantic Council on 6 December 2001.

As regards the European Union, Spain has played a very active role as a catalyst for the initiatives adopted after the crisis of 11 September. The ultimate objective is to create an atmosphere of freedom, security and justice in the European Union so that effective measures can be taken against terrorism.

In the area of security and law enforcement, special mention should be made of the conclusions of the special Council of Ministers of Justice and Home Affairs held in Brussels on 20 September and the Conclusions and Plan of Action of the Extraordinary European Council of Heads of State or Government held on 21 September.

In addition to reaffirming its cooperation with the United States, the European Council drew up a plan of action for European policy relating to the fight against terrorism and entrusted the General Affairs Council with the task of coordinating and promoting its global action in the fight against terrorism.

The Declaration issued by the European Council in Ghent on 19 October 2001 and the decisions adopted in a number of its bodies (General Affairs, JAI, JAI-ECOFIN, ECOFIN and Transport) have led to 68 measures being included in the Plan of Action, the implementation of which is among the six priorities of the Spanish Presidency.

At its meeting of 10 December 2001, the General Affairs Council of the European Union reached a political agreement on a number of legislative measures and, in particular, two joint positions and a set of regulations that will enable the Union to take effective action against terrorism, including against the financing thereof. These measures are essential to compliance with the obligations arising from United Nations Security Council resolution 1373.

The Spanish Presidency of the European Union, which begins on 1 January 2002, will focus its strategy on the following four fundamental aspects:

1. Strengthening of instruments for the rule of law throughout the Union. Spain realizes from its own experience that if the rule of law is to address terrorism, it is essential that all the legal systems of the States of the Union be harmonized so that they can work together to eradicate any possibility of terrorists finding safe haven in the territory of the European Union.

In order to ensure this cooperation and harmonization, the Spanish Presidency will build on the agreements reached during the Belgian Presidency as reflected in the conclusions of the Laeken European Council and will focus its efforts on the creation and strengthening of the instruments referred to in the framework decision on combating terrorism, the framework decision on the freezing of assets, mutual recognition of court decisions and the development of Eurojust, among others.

2. Strengthening of cooperation between the security bodies and forces of the Member States.

To this end, the Spanish Presidency considers it necessary to continue working on joint lists of terrorist organizations and joint investigation teams and to make a special effort to strengthen Europol and other means for exchanging and using available information.

3. Response to terrorism in its present dimensions.

The fight against terrorism covers a broad range of activities, from air security to financial transactions. With regard to the latter, the Spanish Presidency attaches special importance to the work of the JAI-ECOFIN Joint Council in areas such as money laundering, freezing of assets and cooperation between financial intelligence units of Member States.

4. International cooperation

The Spanish Presidency expects the European Union to play a decisive role in the fight against the international terrorist network. It will work closely with the United Nations in areas such as the drafting of a comprehensive international convention on terrorism. The Union's relations with third countries will be assessed in the light of the degree to which they cooperate in the fight against terrorism.

In particular, the Spanish Presidency will promote solidarity and cooperate as closely as possible with the United States, both in the international arena and in the narrower sphere of trans-Atlantic relations.

3 F. Take appropriate measures to ensure that asylum-seekers have not planned or facilitated terrorist acts.

Sub-paragraph (f) – *What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.*

In processing requests for asylum, Spain pays special attention to requests submitted by citizens who allegedly advocate ideologies or belong to groups that are linked to terrorist activities.

The administrative procedures for deciding whether to grant asylum are regulated by the aforementioned law on asylum and the regulations thereto, which were approved by Royal Decree 203/1995, of 10 February. The Office of the United Nations High Commissioner for Refugees (UNHCR) plays an active role in this regard, as do other organizations that have been duly authorized to advise and assist refugees. The Spanish Office for Asylum and Refugees may request such reports as it considers necessary from state administrative agencies or any other public entity.

In accordance with the UNHCR Handbook on procedures and criteria for determining refugee status, which is applied in Spain, in denying asylum based on the circumstances envisaged in article 1.F(b) of the Geneva Convention, it is not necessary to prove the existence of criminal proceedings in respect of the acts mentioned in the article in question.

3 G. Ensure that refugee status is not abused by terrorists and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists.

Sub-paragraph (g) – *What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.*

Under article 3.2 of the law on asylum, which is based on the Geneva Convention, the principle of non-return may not be applied to refugees in respect of whom there is good reason to believe that they represent a threat to the security of the country in which they are living at the time. This principle may be understood to include persons who have been involved in terrorist activities.

The passive extradition law of 21 March 1985 precludes considering terrorist acts as political offences for purposes of refusing extradition.

If it is found, after refugee status has been granted, that a person has committed terrorist acts, the status of refugee may be revoked, in accordance with the procedure envisaged in Spanish domestic legislation.

Paragraph 4. – The Security Council notes with concern the close connection between international terrorism and organized crime, illicit drugs, money-laundering, illegal arms trafficking and illegal movement of nuclear, chemical and biological materials.

Single paragraph. *Coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.*

Spain's law on the prevention of money laundering (law 19/1993, of 28 December) takes a unified approach towards money-laundering operations and other economic consequences of activities involving organized crime, terrorism and illegal drug trafficking.

Spain has entered into a number of bilateral agreements on organized crime which cover many different manifestations of such crime (terrorism, illegal drug trafficking, illegal arms trafficking and illegal movement of nuclear, radioactive, explosive and toxic materials and financing of criminal activities).

At both the bilateral level and in the different regional and global forums in which it participates, Spain promotes international cooperation and coordination in the fight against the plague of terrorism.

On the domestic front, the work of the different State security forces and entities, the autonomous communities and the local corporations is coordinated through a special agency, namely the Juntas de Seguridad. The general

administration of the State coordinates the activities of the administrative bodies that are responsible for civil protection.

In the framework of the European Union, and in keeping with the conclusions of the Laeken European Council, the Spanish Presidency will promote the creation of a European civil protection agency. This agency would implement a programme for protecting the population of the European Union from nuclear, biological and chemical (NBC) attacks, including preparations for coordinated action by NBC intervention teams in member countries.

Anexo I

"Artículo 571

Los que perteneciendo, actuando al servicio o colaborando con bandas armadas, organizaciones o grupos cuya finalidad sea la de subvertir el orden constitucional o alterar gravemente la paz pública, cometan los delitos de estragos o de incendios tipificados en los artículos 346 y 351, respectivamente, serán castigados con la pena de prisión de quince a veinte años, sin perjuicio de la pena que les corresponda si se produjera lesión para la vida, integridad física o salud de las personas. .

Artículo 572

1. Los que perteneciendo, actuando al servicio o colaborando con las bandas armadas, organizaciones o grupos terroristas descritos en el artículo anterior, atentaren contra las personas, incurrirán:

1°) En la pena de prisión de veinte a treinta años si causaran la muerte de una persona.

2°) En la pena de prisión de quince a veinte años si causaran lesiones de las previstas en los artículos 149 y 150 o secuestraran a una persona.

3°) En la pena de prisión de diez a quince años si causaran cualquier otra lesión o detuvieran ilegalmente. amenazaran o coaccionaran a una persona.

2. Si los hechos se realizaran contra las personas mencionadas en el apartado 2 artículo 551 o contra miembros de las Fuerzas Armadas, de las Fuerzas y Cuerpos de Seguridad del Estado, Policías de las Comunidades Autónomas o de los Entes locales, se impondrá la pena en su mitad superior.

Artículo 573

El depósito de armas o municiones o la tenencia o depósito de sustancias o aparatos explosivos. inflamables, incendiarios o asfixiantes, o de sus componentes, así como su fabricación, tráfico, transporte o suministro de cualquier forma, y la mera colocación o empleo de tales sustancias o de los medios o artificios adecuados, serán castigados con la pena de pri-

sión de seis a diez años cuando tales hechos sean cometidos por quienes pertenezcan, actúen al servicio o colaboren con las bandas armadas, organizaciones o grupos terroristas descritos en los artículos anteriores.

Artículo 574

Los que perteneciendo, actuando al servicio o colaborando con bandas armadas, organizaciones o grupos terroristas, cometan cualquier otra infracción con alguna de las finalidades expresadas en el artículo 571, serán castigados con la pena señalada al delito o falta ejecutados en su mitad superior.

Artículo 575

"Los que, con el fin de allegar fondos a las bandas armadas, organizaciones o grupos terroristas señalados anteriormente, o con el propósito de favorecer sus finalidades, atentaren contra el patrimonio, serán castigados con la pena superior en grado a la que correspondiere por el delito cometido, sin perjuicio de las que proceda imponer conforme a lo dispuesto en el artículo siguiente por el acto de colaboración."

Artículo 576

"1. Será castigado con las penas de prisión de cinco a diez años y multa de dieciocho a veinticuatro meses el que lleve a cabo, recabe o facilite, cualquier acto de colaboración con las actividades o las finalidades de una banda armada, organización o grupo terrorista.

2. Son actos de colaboración la información o vigilancia de personas, bienes o instalaciones; la construcción, el acondicionamiento, la cesión o la utilización de alojamientos o depósitos; la ocultación o traslado de personas vinculadas a las bandas armadas, organizaciones o grupos terroristas; la organización de prácticas de entrenamiento o la asistencia a ellas, y, en general, cualquier otra forma equivalente de cooperación, ayuda o mediación, económica o de otro género, con las actividades de las citadas bandas armadas, organizaciones o grupos terroristas."

La previsión como delito de conductas relacionadas con terrorismo se completa con la regulación en el propio Código Penal del blanqueo de capitales. Así resulta del artículo 301 y siguientes del Código, cuyo texto se recoge en el Anexo No. II.

La incoación del procedimiento por estos delitos conlleva la intervención del dinero, efectos u otros bienes con que se haya cometido, el producto de los mismos y sus efectos. Esta intervención puede ser cautelar, mientras dura el procedimiento. Lo permiten y justifican los artículos 13, 326, 334 y 589 de la Ley de Enjuiciamiento Criminal. En tanto, se deben salvaguardar los efectos e instrumentos del delito, los medios de prueba y las responsabilidades pecuniarias derivadas de aquel, se puede proceder sin demora al bloqueo de cuentas bancarias y demás medidas de intervención cautelar de fondos de los responsables del delito.

A parte de la intervención cautelar, ya en sentencia los bienes y fondos empleados para ayuda de los fines terroristas, desde la preparación del delito, habrán de ser objeto de comiso por ser "efectos del delito, instrumentos con que se ha ejecutado y ganancias, cualquiera que fueren las transformaciones que hubieran podido experimentar" (artículo 127 del Código Penal). Al adelantarse la persecución penal del terrorismo a los primeros momentos, el comiso será de todo lo empleado en su preparación y, por ello, a esto se extenderá la "congelación de fondos" judicialmente.

Artículo 577

Los que, sin pertenecer a banda armada, organización o grupo terrorista, y con la finalidad de subvertir el orden constitucional o de alterar gravemente la paz pública. o la de contribuir a estos fines atemorizando a los habitantes de una población o a los miembros de un colectivo social, político o profesional, cometieren homicidios, lesiones de las tipificadas en los artículos 147 a 150, detenciones ilegales, secuestros, amenazas o coacciones contra las personas, o llevaren a cabo cualesquiera delitos de incendios, estragos, daños de los tipificados en los artículos 263 a 266, 323 ó 560, o tenencia, fabricación, depósito, tráfico, transporte o suministro de armas, municiones o sustancias o aparatos explosivos, inflamables, incendiarios o asfixiantes, o de sus componentes, serán castigados con la pena que corresponda al hecho cometido en su mitad superior.

Artículo 578

El enaltecimiento o la justificación por cualquier medio de expresión pública o difusión de los delitos comprendidos en los artículos 571 a 577 de este Código o de quienes hayan participado en su ejecución, o la realización de actos que entrañen descrédito, menosprecio o humillación de las víctimas de los delitos terroristas o de sus familiares se castigará

con la pena de prisión de uno a dos años. El Juez también podrá acordar en la sentencia, durante el período de tiempo que el mismo señale, alguna o algunas de las prohibiciones previstas en el artículo 57 de este Código.

Artículo 579

1. La provocación. la conspiración y la proposición para cometer los delitos previstos en los artículos 571 a 578 se castigarán con la pena inferior en uno o dos grados a la que corresponda, respectivamente, a los hechos previstos en los artículos anteriores.

2. Los responsables de los delitos previstos en esta sección, sin perjuicio de las penas que correspondan con arreglo a los artículos precedentes, serán también castigados con la pena de inhabilitación absoluta por un tiempo superior entre seis y veinte años al de la duración de la pena de privación de libertad impuesta, en su caso, en la sentencia, atendiendo proporcionalmente a la gravedad del delito, el número de los cometidos y a las circunstancias que concurran en el delincuente.

3. En los delitos previstos en esta sección, los Jueces y Tribunales, razonándolo en sentencia, podrán imponer la pena inferior en uno o dos grados a la señalada por la Ley para el delito de que se trate, cuando el sujeto haya abandonado voluntariamente sus actividades delictivas y se presente a las autoridades confesando los hechos en que haya participado y además colabore activamente con éstas para impedir la producción del delito o coadyuve eficazmente a la obtención de pruebas decisivas para la identificación o captura de otros responsables o para impedir la actuación o el desarrollo de bandas armadas, organizaciones o grupos terroristas a los que haya pertenecido o con los que haya colaborado.

Artículo 580

"En todos los delitos relacionados con la actividad de las bandas armadas, organizaciones o grupos terroristas, la condena de un Juez o Tribunal extranjero será equiparada a las sentencias de los Jueces o Tribunales españoles a los efectos de aplicación de la agravante de reincidencia."

Además de la comisión de delitos con fines terroristas, está previsto como delito la mera pertenencia a banda armada o grupo terrorista.

Así, él artículo 515 del Código Penal considera como "asociación ilícita":

... 2°) "Las bandas armadas, organizaciones o grupos terroristas".

Las penas se establecen en el artículo 516:

"En los casos previstos en el número 2° artículo anterior, se impondrán las siguientes penas:

1°) A los promotores y, directores de las bandas armadas y organizaciones terroristas, y a quienes dirijan cualquiera de sus grupos, las de prisión de ocho a catorce años y de inhabilitación especial para empleo o cargo público por tiempo de ocho a quince años.

2°) A los integrantes de las citadas organizaciones, la de prisión de seis a doce años, e inhabilitación especial para empleo o cargo público por tiempo de seis a catorce años."

El artículo 519 del Código Penal tipifica la provocación, conspiración y proposición para cometer el delito de asociación ilícita, señalando pena inferior en uno o dos grados a la que corresponde por aplicación del artículo 516.

Dos últimos preceptos se ocupan de estas conductas: el artículo 520, para prever la disolución de la asociación ilícita o cualquier otra posible consecuencia accesoria del artículo 129 del Código; y el artículo 521, para agravar la pena del delito de asociación ilícita cuando se cometa por autoridad, agente de la misma o funcionario público.

Anexo II

Artículo 301

1. El que adquiera, convierta o transmita bienes, sabiendo que éstos tienen su origen en un delito grave o realice cualquier otro acto para ocultar o encubrir su origen ilícito, o para ayudar a la persona que haya participado en la infracción o infracciones a eludir las consecuencias legales de sus actos, será castigado con la pena de prisión de seis meses a seis años y multa del tanto al triplo del valor de los bienes.

Las penas se impondrán en su mitad superior cuando los bienes tengan su origen en alguno de los delitos relacionados con el tráfico de drogas tóxicas, estupefacientes o sustancias psicotrópicas descritos en los artículos 368 a 372 de este Código.

2. Con las mismas penas se sancionará, según los casos, la ocultación o encubrimiento de la verdadera naturaleza, origen, ubicación, destino, movimiento o derechos sobre los bienes o propiedad de los mismos, a sabiendas de que proceden de alguno de los delitos expresados en el apartado anterior o de un acto de participación en ellos.

3. Si los hechos se realizasen por imprudencia grave, la pena será de prisión de seis meses a dos años y multa del tanto al triplo.

4. El culpable será igualmente castigado aunque el delito del que provinieren los bienes, o los actos penados en los apartados anteriores hubiesen sido cometidos, total o parcialmente, en el extranjero.

Artículo 302

En los supuestos previstos en el artículo anterior se impondrán las penas privativas de libertad en su mitad superior a las personas que pertenezcan a una organización dedicada a los fines señalados en los mismos, y la pena superior en grado a los jefes, administradores o encargados de las referidas organizaciones.

En tales casos, los Jueces o Tribunales impondrán, además de las penas correspondientes, la de inhabilitación especial del reo para el ejercicio de su profesión o industria por tiempo de tres a seis años, y podrán decretar, asimismo, alguna de las medidas siguientes:

a) Disolución de la organización o clausura definitiva de sus locales o establecimientos abiertos al público.

b) Suspensión de las actividades de la organización, o clausura de sus locales o establecimientos abiertos al público por tiempo no superior a cinco años.

c) Prohibición a las mismas de realizar aquellas actividades, operaciones mercantiles o negocios, en cuyo ejercicio se haya facilitado o encubierto el delito, por tiempo no superior a cinco años.

Artículo 303

Si los hechos previstos en los artículos anteriores fueran realizados por empresario, intermediario en el sector financiero, facultativo, funcionario público, trabajador social, docente o educador, en el ejercicio de su cargo, profesión u oficio, se le impondrá, además de la pena correspondiente, la de inhabilitación especial para empleo o cargo público, profesión u oficio, industria o comercio, de tres a diez años. Se impondrá la pena de inhabilitación absoluta de diez a veinte años cuando los referidos hechos fueren realizados por autoridad o agente de la misma.

A tal efecto, se entiende que son facultativos los médicos, psicólogos, las personas en posesión de títulos sanitarios, los veterinarios, los farmacéuticos y sus dependientes.